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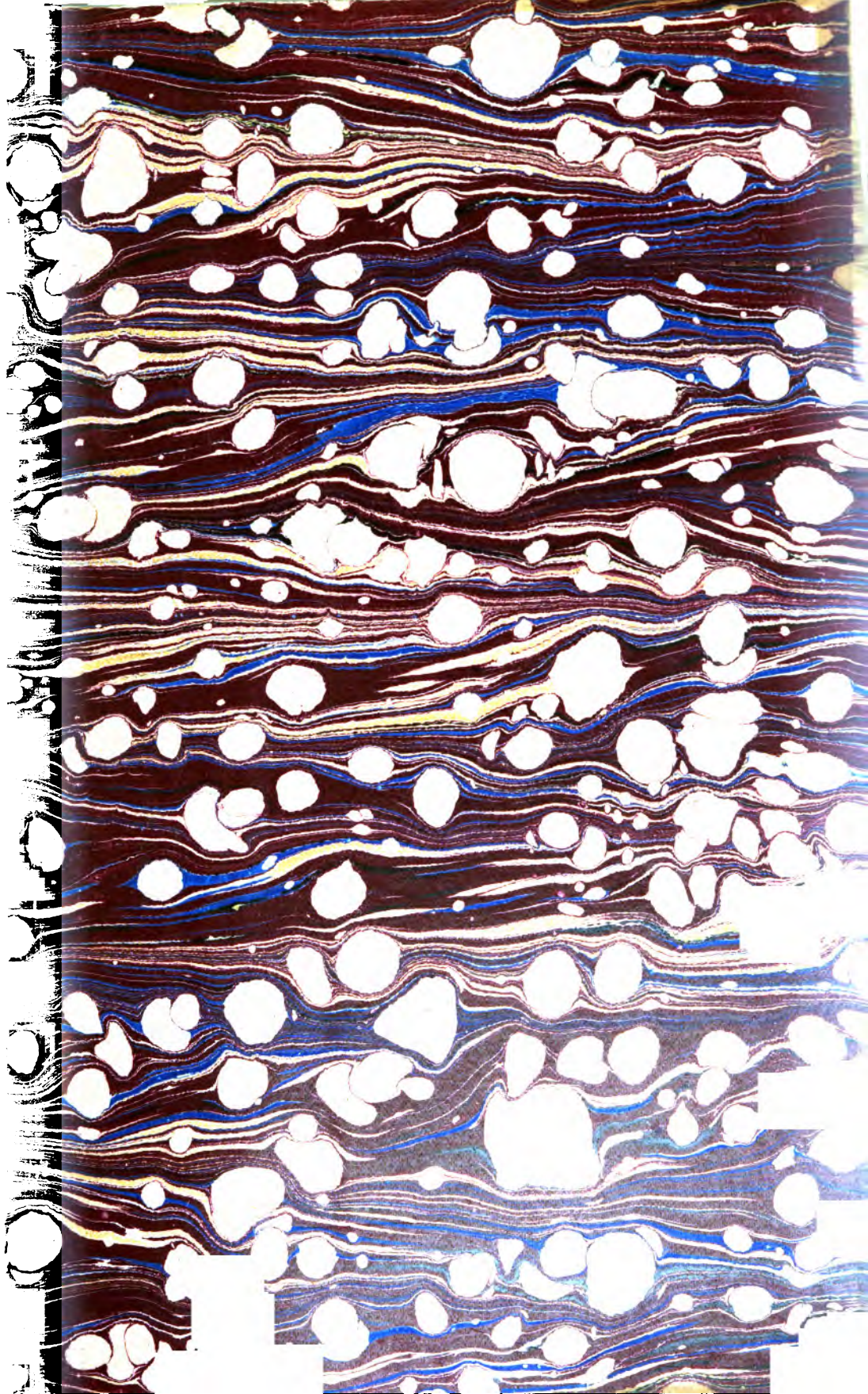


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THE  
HAGUE CONFERENCE

AND  
OTHER INTERNATIONAL CONFERENCES  
CONCERNING THE  
LAWS AND USAGES OF WAR.

*TEXTS OF CONVENTIONS*

WITH NOTES

BY  
A. PEARCE HIGGINS, M.A., LL.D.,

SOMETIME SCHOLAR OF DOWNING COLLEGE;  
LECTURER ON LAW IN CLARE COLLEGE, CAMBRIDGE.

LONDON:  
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## INTRODUCTION.

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ONE of the most hopeful signs of progress of International Law during the last fifty years is to be found in the attempts which have been made by means of International Conferences to arrive at a definite understanding on the subject of the conduct of hostilities.

The results of the Conferences at Paris, Geneva, St. Petersburg, Brussels and the Hague, though of different values from the point of view of International Law, all tend in one direction. They are attempts gradually to bring into existence a code of law which shall be universally recognized as binding on belligerents. So far, with the exception of the Declaration of Paris and the Conventions of the Hague Conference applying the principles of the Geneva Convention to maritime warfare, they are all concerned with the conduct of hostilities on land. The Hague Conference expressed a hope that at some future time another Conference might meet to formulate rules on the subject of maritime hostilities.

Regulations for freedom of neutral property from capture at sea, for the care of the sick and wounded, for limitations on the means of destruction permissible in war, and for the general usages of land warfare, have now received a general sanction by the sovereign powers of the world. To some of the Conventions, as those of Geneva, 1864, and St. Petersburg, and the Hague Conventions, most of such powers have actually become



assenting parties, and as between themselves are contractually bound, while as to others, practice is fast hardening into law even as against powers who have not formally acceded to the Conventions.

The idea of humanising war, and conducting it under rules and laws, is of comparatively recent growth, and it is now only some fifty years since the first step was taken by the Declaration of Paris, 1856, to bring into the domain of law and practice doctrines which had hitherto found a place only in the theoretical part of International Law.

The publication in 1863 by the Northern States of America of their *Instructions for Armies in the Field*, which had been drawn up by Dr. Lieber, marks an important step in the regulation of the conduct of war. The Conferences of Geneva in 1864 and 1868, for ameliorating the condition of the wounded, and the Conference of St. Petersburg in 1868 forbidding the use of explosive bullets, were followed in 1874 by the Brussels Conference, where, for the first time, an attempt was made to draft a code of rules which could be accepted as binding in the conduct of hostilities on land. Meantime the Institute of International Law had come into being in 1873, and at its meeting at Oxford in 1880, drew up a Manual of the laws of war on land.

The Declaration of Brussels, though never formally ratified, formed an important starting point for the issue of Manuals for use of armies, and the Hague Convention on the Laws and Customs of War on Land, which has been ratified by nearly all the powers represented, was avowedly based on it.

Much, however, remains before the laws of war, both on land and sea, can be actually reduced to a binding International Code and the rights and duties of neutrals properly ascertained; and meantime, the valuable effect



of such Conventions as those of the Hague depends on the knowledge of the rules on the part of the armed forces of the States. Many States have for some time past been issuing to their armies rules for their guidance in the field, and thus a common basis for further attempts at codification is coming into being (a). Under Art. 1 of the Hague Convention with respect to the laws and customs of war on land, the contracting powers agree to issue instructions to their armed land forces in conformity with the "Regulations respecting the laws and customs of war on land" annexed to that Convention (b). xxx

But this is not sufficient. Just as in the British Navy all officers of superior rank are receiving regular and systematic instruction in International Law, so also should the officers in the army be fully instructed in all the rules for the mitigation of the horrors of war which have received such marked international approval as those of the following Conventions. Lectures are now given in France to the officers of the *Corps d'armée*, and unless such regular instruction is provided for the officers of all armies, the engagements of these Conferences will undoubtedly remain a dead letter (c). I am informed that no lectures are provided for British officers, but that

(a) Reference has already been made to regulations issued by the United States in 1863 (see Halleck, *International Law*, ii. 40—57). A French *Manuel de Droit International à l'usage des Officiers de l'Armée de Terre* is issued by the Minister of War; Russia has issued a similar set of instructions; the German Manual was prepared by Herr Dahn, the Italian by Signor Berti, General den Beer Poortugael has edited one for Holland, and the British Manual of Military Law was prepared by Dr. Lushington (see Maine, *International Law*, p. 130 et seq.). At a Congress held at Madrid in 1892, representatives of Spain and Portugal and the South American States drew up similar regulations, which have been adopted by Spain in the military schools (Despagnet, *Cours de Droit International Public*, 545).

(b) I am informed that Prof. Holland has prepared for the War Office a work entitled *The Laws and Customs of War on Land*.

(c) F. de Martens, Introduction to *Les Lois et Coutumes de la Guerre sur Terre*, par A. Mérignhac.



they are expected to know, and are, in fact, examined in the Manual of Military Law issued by the War Office.

International Law embodies the rules of practice of the civilized nations of the world in their dealings with each other—and such practice is but the embodiment in acts of the moral consciousness of mankind.

Public opinion is one of the great formative elements in International Law and morality, and an educated public opinion in each of the States of the family of nations is one of the greatest safeguards for the due observance of International Law.

Law, both international and municipal, must always wait on and fall short of the highest standards of morality current among those governed by it. The bare record of the growth of law, evidencing as it does the constant elevation of the general international ideal, may, it is hoped, be of some slight assistance in stimulating still further those moral aims which shall make war increasingly difficult, and reduce to a minimum the sufferings of all unfortunately involved.

In lecturing on International Law in Cambridge, I have frequently felt the want of a handy edition in English of the texts of the results of the International Conferences, and I have undertaken the publication of the following Conventions primarily for the benefit of students. The various rules are, of course, to be found embodied in treatises on International Law, and therefore I have contented myself with collecting the texts of the international agreements, and supplementing them with a very short statement of the circumstances of the Conferences, and an occasional note on the Conventions.

I have purposedly refrained from criticisms and suggestions as to the best means of providing for the due enforcement of these rules; I have, however, added a few references to works dealing with such topics which I hope may be found of use.



## THE DECLARATION OF PARIS, 1856<sup>(a)</sup>.

**Declaration** respecting maritime law, signed by the plenipotentiaries of Great Britain, Austria, France, Prussia, Russia, Sardinia, and Turkey assembled in Congress at Paris, April 16th, 1856. The plenipotentiaries who signed the Treaty of Paris of the 30th March, 1856, assembled in conference, considering—

That maritime law in time of war has long been the subject of deplorable disputes.

That the uncertainty of the law, and of the duties in such a matter, gives rise to differences of opinion between neutrals and belligerents which may occasion serious difficulties, and even conflicts: That it is consequently advantageous to establish a uniform doctrine on so important a point: That the plenipotentiaries assembled in Congress at Paris cannot better respond to the intentions by which their Governments are animated than by seeking to introduce into international relations fixed principles in this respect.

The above-mentioned plenipotentiaries, being duly authorized, resolved to concert among themselves as to the means of attaining this object; and, having come to an agreement, have adopted the following solemn declaration:—

1. Privateering is, and remains, abolished.
2. The neutral flag covers enemy's goods, with the exception of contraband of war.

(a) For original text, see State Papers, 1856, p. 136; also Twiss, ii. p. 512; Halleck, *International Law*, ii. 81, 117, 118; Maine, *International Law*, Chap. VI.



3. Neutral goods, with the exception of contraband of war, are not liable to capture under the enemy's flag.
4. Blockades, in order to be binding, must be effective; that is to say, maintained by a force sufficient really to prevent access to the coasts of the enemy.

The Governments of the undersigned plenipotentiaries engage to bring the present Declaration to the knowledge of the States which have not taken part in the Congress of Paris, and invite them to accede to it.

Convinced that the maxim which they now proclaim cannot but be received with gratitude by the whole world, the undersigned plenipotentiaries doubt not that the efforts of their Governments to obtain the general adoption thereof will be crowned with full success. The present Declaration shall not be binding, except between those powers who have acceded, or shall accede to it.

Done at Paris, April 16th, 1856.

The only important maritime powers which have up to the present withheld their formal acceptance to this Declaration are the United States, Spain, Mexico and Venezuela; but the United States during the Civil War in 1861, and both Spain and the United States in 1898, issued proclamations announcing that they would give effect to the principle. The refusal of the United States to give in its formal acceptance was due to the rejection of the Marcy Amendment exempting private property from capture at sea.



## THE CONVENTION OF GENEVA, 1864,

For Ameliorating the Condition of Soldiers  
Wounded on the Field of Battle (a).

[The representatives of the Swiss Confederation, Baden, Belgium, Denmark, Spain, France, Hesse, Italy, Holland, Portugal, Prussia and Wurtemberg] being equally animated of the desire to mitigate, as far as depends upon them, the evils inseparable from war, to suppress useless severities, and to ameliorate the condition of soldiers wounded on the field of battle, have resolved to conclude a Convention for that purpose, and have named as their plenipotentiaries; that is to say [*here follow names of plenipotentiaries*], who, after having exchanged their powers, found in good and due form, have agreed upon the following Articles:—

ART. 1. Ambulances and military hospitals shall be acknowledged to be neutral (*neutres*), and, as such, shall be protected and respected by belligerents so long as any sick or wounded may be therein.

Such neutrality shall cease if the ambulances or hospitals shall be held by a military force.

(a) G. F. de Martens, *Nouveau Recueil des Traités*, xviii. p. 607; Holtzendorff, *Handbuch des Völkerrechts*, iv. §§ 74—77; Bluntschli, *Das Völkerrecht*, pp. 329 *et seq.*, § 586; Hall, *International Law* (5th ed.), pp. 401—406; Lawrence, *International Law*, pp. 338, 339, 491—493; Despagnet, *Cours de Droit International Public*, pp. 585—588; Mérignhac, *Les Lois et Coutumes de la Guerre sur Terre*, pp. 114—139; Holland, *Studies in International Law*, pp. 61—65; Halleck, ii. p. 36; Wheaton (Boyd's), 3rd ed. p. 462; Maine, p. 156; Walker, *Science of International Law*, pp. 357—362; Rivier, *Droit International Public*, ii. p. 268; Gustave de Roszkowski, *La Revision de la Convention de Genève*, *Revue de Droit International*, 2nd series, vol. iv. [1902], pp. 199, 299, 442.



ART. 2. Persons employed in hospitals and ambulances, comprising the staff for superintendence, medical service, administration, transport of wounded, as well as chaplains, shall participate in the benefit of neutrality whilst so employed, and so long as there remain any wounded to bring in or to succour.

ART. 3. The persons designated in the preceding Article may, even after occupation by the enemy, continue to fulfil their duties in the hospital or ambulance which they serve, or may withdraw in order to rejoin the corps to which they belong.

Under such circumstances, when those persons shall cease from their functions, they shall be delivered by the occupying army to the outposts of the enemy.

ART. 4. As the equipment of military hospitals remains subject to the laws of war, persons attached to such hospitals cannot in withdrawing carry away any articles but such as are their private property.

Under the same circumstances an ambulance shall, on the contrary, retain its equipment.

ART. 5. Inhabitants of the country who may bring help to the wounded shall be respected, and shall remain free. The generals of the belligerent Powers shall make it their care to inform the inhabitants of the appeal addressed to their humanity, and of the neutrality which will be the consequence of it.

Any wounded man entertained and taken care of in a house shall be considered as a protection thereto. Any inhabitant who shall have entertained wounded men in his house shall be exempted from the quartering of troops, as well from a part of the contributions of war which shall be imposed.



ART. 6. Wounded or sick soldiers shall be entertained and taken care of, to whatever nation they may belong.

Commanders-in-chief shall have the power to deliver immediately to the outposts of the enemy soldiers who have been wounded in an engagement, when circumstances permit this to be done, and with the consent of both parties.

Those who are recognized, after their wounds are healed, as incapable of serving, shall be sent back to their country.

The others may also be sent back, on condition of not again bearing arms during the continuance of the war.

Removals (*évacuations*), together with the persons under whose directions they take place, shall be protected by an absolute neutrality.

ART. 7. A distinctive and uniform flag shall be adopted for hospitals, ambulances, and removals. It must, on every occasion, be accompanied by the national flag. An arm-badge (*brassard*) shall also be allowed for individuals neutralized, but the delivery thereof shall be left to military authority.

The flag and the arm-badge shall bear a red cross on a white ground.

ART. 8. The details of execution of the present Convention shall be regulated by the commanders-in-chief of belligerent armies, according to the instructions of their respective Governments, and in conformity with the general principles laid down in this Convention.

ART. 9. The High Contracting Powers have agreed to communicate the present Convention to those Governments which have not found it convenient to send Plenipotentiaries to the International Conference at Geneva, with an invitation to accede thereto; the Protocol is for that purpose left open.



ART. 10. The present Convention shall be ratified, and the ratification shall be exchanged at Berne in four months, or sooner if possible.

Done at Geneva the 22nd August, 1864.

Accession of Great Britain signified on the 18th February, 1865.

The Conference, which met at Geneva in August, 1864, was due in a very large degree to the philanthropic effort of M. Dunant, a Swiss writer, whose book entitled *Le Souvenir de Solferino* gave a terribly graphic description of the misery and suffering which the sick and wounded underwent in war. This book, the success of which in attaining its object has been compared to *Uncle Tom's Cabin* (a), was published in 1862 (b). At once a Swiss Society called *La Société Gènevoise d'Utilité Publique* came into existence, and the Swiss Government was induced to summon a Conference of Delegates to consider the subject of the treatment of the sick and wounded in war.

The only States which have not acceded to the Convention are Portugal, Brazil, Mexico, Colombia, Costa Rica, Uruguay and Venezuela; but as Art. 21 of the Hague Conference for regulating the laws of warfare on land re-enacts the Geneva Convention, and as Portugal and Mexico were among the signatory powers of this latter Convention, they may be now taken to have given in their adhesion.

The Convention was somewhat hastily drawn up, and much has been written on the subject of its revision (c). The question was raised at the Hague Conference, but nothing was done beyond the expression of a wish that a special conference should shortly be convened for the purpose of revising the Convention.

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(a) Mégnhac, p. 115.

(b) In 1901 M. Dunant was awarded the Nobel prize for his efforts to mitigate the severity of war. A new edition was published at Amsterdam in 1902.

(c) Lueder, *La Convention de Genève*; Mégnhac, *Conférence de la Paix*, § 76; and see list of works cited by the same author on p. 127 of *Les Lois et Coutumes de Guerres*; see also references given in note (a), p. 11, ante. A valuable sketch of the legislation in various countries for enforcing the Geneva Convention will be found in two Articles by Prof. Gustave de Roszkowski in *La Revue de Droit International*, 2nd series, vol. vi. [1904], pp. 76 and 188.



## THE GENEVA CONVENTION OF 1868 <sup>(a)</sup>.

The Governments of North Germany, Austria, Baden, Bavaria, Belgium, Denmark, France, Great Britain, Italy, Holland, Sweden and Norway, Switzerland, Turkey and Wurtemberg, desiring to extend to the armies at sea the advantage of the Convention concluded at Geneva the 22nd August, 1864, for ameliorating the condition of soldiers wounded on the field of battle, and to define some of the stipulations of the said Convention, have named as their Commissioners [*here follow the names*], who being duly authorized for this purpose, have agreed, subject to the approval of their governments, to the following provisions :—

ART. 1. The persons designated in Article 2 of the Convention shall continue after occupation by the enemy to give their services, according to the measure of the necessities, for the sick and the wounded of the ambulance or hospital which they serve.

When they shall make a demand to withdraw, the commander of the occupying forces shall fix the moment of their departure, which he cannot under any circumstances delay, except for a short period in case of military necessities.

ART. 2. Dispositions ought to be made by the belligerent powers to assure to the persons neutralized, who

(a) Twiss, ii. p. 534; Holtzendorff, iv. §§ 78, 79; Lawrence, pp. 339, 349; Holland, p. 64; Hall, pp. 403—405; Halleck, ii. 83—86.



may fall into the hands of the enemy's army, the complete enjoyment of their appointments (*la jouissance intégrale de son traitement*).

ART. 3. In the conditions provided for by Articles 1 and 4 of the Convention, the denomination of ambulances applies to field hospitals and other temporary establishments, which follow the troops on the field of battle to receive there the sick and wounded.

ART. 4. In accordance with the spirit of Article 5 of the Convention, and under the reserves mentioned in the Protocol of 1864, it is explained that, as regards the division of the charge relative to the lodgment of troops and the contributions of war, account will only be taken in an equitable degree of the charitable zeal exhibited by the inhabitants.

ART. 5. In extension of Article 6 of the Convention, it is stipulated that with the reservation of officers, the detention of whom may be important to the success of the war, and within the limits fixed by the second paragraph of this Article, the wounded who have fallen into the hands of the enemy, although they may not have been recognized as incapable of service, ought to be sent back to their country after their wounds are healed, or sooner if it be possible, on condition always of not resuming arms during the continuance of the war.

### **Articles concerning Naval Warfare (*la marine*).**

ART. 6. Boats which, at their risk and peril, during and after the engagement, pick up, or which, having picked up the shipwrecked or the wounded, convey them on board a neutral or hospital ship, shall enjoy, until the completion of their mission, such a degree of



neutrality as the circumstances of the engagement and the situation of the vessels in conflict will allow to be applied to them.

The appreciation of the circumstances is left to the humanity of all the combatants.

The shipwrecked and wounded soldiers so picked up and saved cannot serve during the continuance of the war.

ART. 7. Every person employed in the religious, medical or hospital service of any captured vessel is declared inviolable (*neutre*). On leaving the vessel, he carries away the articles and instruments of surgery which are his own private property.

ART. 8. Every person designated in the preceding Article ought to continue to fulfil his functions on board the captured vessel, to assist in the removal (*évacuations*) of the wounded made by the victorious side, after which he should be free to return to his own country, in accordance with the second paragraph of the first additional Article above mentioned.

The stipulations of the second additional Article above mentioned are applicable to the treatment of these persons.

ART. 9. Military hospital vessels remain subject to the laws of war, as regards their equipment; they become the property of the captor, but the latter cannot divert them from their special occupation during the continuance of the war.

ART. 10. Every merchant vessel (*bâtiment de commerce*), to whatever nation it may belong, laden exclusively with wounded or sick, whose removal it is effecting, has the protection of neutrality; but the fact alone of a visit, notified in her log-book, by an enemy cruiser, renders the wounded and sick incapable of serving during the con-



tinuance of the war. The cruiser shall even have the right of putting on board a commissioner to accompany the convoy to verify in this manner the good faith of the operation.

If the merchant vessel carries a cargo in addition, the neutral character shall still protect it, provided that the cargo be not of a nature to be confiscated by the belligerent.

Belligerents retain the right of interdicting to neutralized vessels all communication and all direction which they consider prejudicial to the secrecy of their operations.

In urgent cases special conventions may be made between the commanders-in-chief to neutralize temporarily in a special manner ships intended for the transport of the wounded or sick.

**ART. 11.** Sailors and soldiers wounded or sick, to whatever nation they may belong, shall be protected and taken care of by the captors.

Their restoration to their country is made subject to the provisions of the sixth Article of the Convention and the fifth additional Article.

**ART. 12.** The distinctive flag to be added to the national flag to denote a ship or boat of any kind which claims the benefit of neutrality in virtue of the principles of this Convention is the white flag with a red cross.

Belligerents exercise in this respect all such verification as they judge necessary.

Military hospital vessels shall be distinguished by white external painting, with a green broad band (*batterie*).

**ART. 13.** Hospital ships, equipped at the expense of associations for the aid of the wounded recognized by the Governments which have signed this Convention,



being provided with a commission issued by the sovereign, who shall have expressly authorized their fitting out, and with a document from a competent maritime authority, certifying that they have been submitted to its control during their fitting out and at their final departure, and that they were then appropriated exclusively to the object of their mission, shall be considered as neutral as well as all the persons employed in them.

They shall be respected and protected by the belligerents.

They shall make themselves known by hoisting with their national flag the white flag with a red cross. The distinctive mark of the persons employed on them during the exercise of their functions shall be an arm-badge of the same colours; their external painting shall be white with a red broad band.

These ships may carry succour and assistance to the wounded and shipwrecked belligerents, without distinction of nationality.

They ought not in any way to embarrass the movements of the combatants.

During and after the combat they shall act at their own risk and peril.

The belligerents shall have over them the right of control and visit; they may refuse their assistance, may enjoin them to remove to a distance and may detain them, if the gravity of the circumstances require it.

The wounded and shipwrecked picked up by these vessels cannot be claimed by any of the combatants, but they are under an obligation not to serve again during the continuance of the war.

**ART. 14.** In naval wars, any strong presumption, that one of the belligerents profits in the benefit of neutrality in any interest other than that of the wounded and sick,



allows the other belligerent, until proof of the contrary, to suspend the Convention as regards him.

If this presumption becomes a certainty, the Convention may be denounced as regards him during the continuance of the war.

**ART. 15.** The present Act shall be drawn up in a single original Act, which shall be deposited in the archives of the Swiss Confederation.

An authentic copy of this Act shall be delivered, with an invitation to accede thereto, to each of the powers who have signed the Convention of 22 August, 1864, as likewise to those who have successively acceded to it.

Done at Geneva, the 20th day of October, 1868.

The second Conference at Geneva in 1868 was summoned by the Swiss Government as a result of a Conference held at Paris in 1867, on the occasion of the Exhibition.

The need for some further explanations and additions to the Convention of 1864 found expression in Articles 1—5, while the subsequent Articles are an application to maritime warfare of the same principles.

From various causes the projected Articles were never formally ratified, but with some modification they have received the assent of most of the powers, and have been acted on in maritime wars since 1868.

The principles of Articles 6—15 have been now embodied in the Convention adopted by the Hague Conference, and have become binding on the contracting powers. A comparison of the two Conventions will bring out the differences in detail (b).

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(b) M. G. de Lapradelle (*La Conférence de la Paix*) is of opinion that the Conventions of 1899 are inferior to those of 1868.



## DECLARATION OF ST. PETERSBURG, 1868,

### Relative to the Prohibition of Explosive Bullets in Time of War (a).

On the proposition of the Imperial Cabinet of Russia, an International Military Commission having assembled at St. Petersburg in order to examine into the expediency of forbidding the use of certain projectiles in time of war between civilized nations, and that Commission having by common agreement fixed the technical limits at which the necessities of war ought to yield to the requirements of humanity, the undersigned are authorized by the orders of their Governments to declare as follows:—

Considering that the progress of civilization should have the effect of alleviating as much as possible the calamities of war;

That the only legitimate objects which States should endeavour to accomplish during war is to weaken the military forces of the enemy;

That for this purpose it is sufficient to disable the greatest possible number of men;

That this object would be exceeded by the employment of arms, which uselessly aggravate the sufferings of disabled men, or render their death inevitable;

(a) G. F. de Martens, *Nouveau Recueil des Traités*, vol. xviii. p. 474; Hall, p. 532; Lawrence, pp. 438, 439; Mérignhac, p. 150; Despagnet, p. 567; Rivier, ii. p. 261; Halleck, i. p. 563; Walker, p. 330; Holland, p. 66.



That the employment of such arms would, therefore, be contrary to the laws of humanity ;

The Contracting Parties engage mutually to renounce in case of war among themselves the employment by their military or naval troops of any projectile of a weight below 400 grammes [about 14 ounces] which is either explosive or charged with fulminating or inflammable substances.

They will invite all the States which had not taken part in the deliberations of the International Military Commission assembled at St. Petersburg, by sending delegates thereto, to accede to the present engagement.

This engagement is obligatory only upon the contracting or acceding parties thereto in case of war between two or more of themselves ; it is not applicable with regard to non-contracting parties or parties who shall not have acceded to it.

It will also cease to be obligatory from the moment when in a war between contracting or acceding parties, a non-contracting party or a non-acceding party shall join one of the belligerents.

The contracting or acceding parties reserve to themselves to come hereafter to an understanding, whenever a precise proposition shall be drawn up in view of future improvements, which science may effect in the armament of troops, in order to maintain the principles which they had established, and to conciliate the necessities of war with the laws of humanity.

Done at St. Petersburg, the <sup>29 Nov</sup><sub>11 Dec.</sub> 1868.

Signed by the representatives of Great Britain, Austria and Hungary, Bavaria, Belgium, Denmark, France, Greece, Italy, Netherlands, Persia, Portugal, Prussia and the North German Confederation, Russia, Sweden and Norway, Switzerland, Turkey and Wurtemberg.



The Declaration of St. Petersburg is the first formal international agreement on the use of weapons of war, and the statement of the reasons for its declarations is marked by a high feeling of humanity. War is necessarily productive of great pain and suffering to the combatants, but the contracting powers put it on record that it is inhuman to "uselessly aggravate the sufferings of disabled men."

The Conference at St. Petersburg which was summoned by the Czar, Alexander II., was composed of military delegates from the signatory powers, and since its ratification by the powers represented, the Declaration has been acceded to by all the civilized States of the world.



## THE BRUSSELS CONFERENCE, 1874 (a).

### **Project of an International Declaration concerning the Laws and Customs of War.**

#### *Of Military Authority over the Hostile State.*

ART. 1. A territory is considered as occupied when it is actually placed under the authority of the hostile army.

The occupation applies only to the territory where such authority is established, and in a position to assert itself. (See Art. 42 of Hague Convention.)

ART. 2. The authority of the legitimate power being suspended and having actually passed into the hands of the occupant, the latter shall take all steps in his power to re-establish and insure, as far as possible, public order and safety. (See Art. 43 of H. C., which combines Arts. 2 and 3.)

(a) For text, see Parl. Papers, 1875, lxxii. [C. 1128]; and for other information as to the Conference, Parl. Papers, 1874, lxxvi. [C. 1010]; 1875 [C. 1129, 1136]; Holland, *Studies in International Law*, pp. 59—95. For sketch of history of weapons of war, &c., see Bernard, *Growth of the Laws of War*, in the Oxford Essays for 1856; Lawrence, pp. 331 *et seq.*; Hall, pp. 407, 523, 550; Despagnet, p. 544; Mérignhac, pp. 22—24; Halleck, i. p. 554; Wheaton (Boyd's), 3rd ed., p. 540; Lorimer, *Institutes of the Law of Nations*, pp. 337—402; Westlake, *Int. Law*, Chap. XI.; Maine, Chaps. VII.—XI.; Walker, pp. 362—368; Holtzendorff, § 80, and (history of attempts at codification) §§ 70—73; Bluntschli, pp. 303, 529 *et seq.*



ART. 3. With this object he will maintain the laws which were in force in the country in time of peace, and will only modify, suspend or replace them by others if necessity obliges him to do so.

ART. 4. The functionaries and officials of every class who at the instance of the occupier consent to continue to perform their duties shall be under his protection. They shall not be dismissed or liable to summary punishment (*peines disciplinaires*) unless they fail in fulfilling the obligations they have undertaken, and shall be handed over to justice only if they violate those obligations by unfaithfulness. (Omitted from H. C.)

ART. 5. The army of occupation shall only levy such taxes, dues, duties and tolls as are already established for the benefit of the State, or their equivalent, if it be impossible to collect them, and this shall be done as far as possible in the form of and according to existing practice. It shall devote them to defraying the expenses of the administration of the country to the same extent as was obligatory on the legal government. (See Art. 48 of H. C.)

ART. 6. The army occupying a territory shall take possession only of the specie, the funds and marketable securities (*valeurs exigibles*) which are the property of the State in its own right, the depôts of arms, means of transport, magazines and supplies, and in general, all the personal property of the State which is of a nature to aid in carrying on the war.

Railway plant, land telegraphs, steam and other vessels, not included in cases regulated by maritime law, as well as depôts of arms, and generally every kind of munitions of war, although belonging to companies or to private individuals, are to be considered equally as



means of a nature to aid in carrying on war, which cannot be left by the army of occupation at the disposal of the enemy. Railway plant, land telegraphs, as well as the steam and other vessels above mentioned; shall be restored and indemnities be regulated on the conclusion of peace. (See Art. 53 of H. C.)

ART. 7. The occupying State shall only consider itself in the light of an administrator and usufructuary of the public buildings, real property, forests, and agricultural works belonging to the hostile State, and situated in the occupied territory. It is bound to protect the capital of these properties (*fonds de ces propriétés*), and to administer them according to the laws of usufruct. (See Art. 55 of H. C.)

ART. 8. The property of the communes, that of religious, charitable and educational institutions, and those of arts and science, even when State property, shall be treated as private property.

All seizure of, and destruction, or intentional damage to such institutions, to historical monuments, works of art or science, should be made the subject of proceedings by the competent authorities. (See Art. 56 of H. C.)

*Of those who are to be recognized as Belligerents ; of  
Combatants and Non-combatants.*

ART. 9. The laws, rights and duties of war apply not only to armies, but likewise to militia and corps of volunteers, fulfilling the following conditions:—

1. That they have at their head a person responsible for his subordinates ;
2. That they wear some settled distinctive badge recognizable at a distance ;



3. That they carry arms openly ; and
4. That in their operations they conform to the laws and customs of war.

In those countries where the militia form the whole or part of the army, they shall be included under the denomination of "army." (See Art. 1 of H. C.)

ART. 10. The population of a non-occupied territory, who on the approach of the enemy of their own accord take up arms to resist the invading troops, without having had time to organize themselves in conformity with Article 9, shall be considered as belligerents, if they respect the laws and customs of war. (See Art. 2 of H. C.)

ART. 11. The armed forces of the belligerents may be composed of combatants and non-combatants. In the event of being captured by the enemy, both one and the other shall enjoy the rights of prisoners of war. (See Art. 3 of H. C.)

*Of means of Injuring the Enemy.*

ART. 12. The laws of war do not allow to belligerents an unlimited choice of means of injuring the enemy. (See Art. 22 of H. C.)

ART. 13. According to this principle are strictly forbidden—

- (a) The use of poison or poisoned weapons.
- (b) Murder by treachery of individuals belonging to the hostile nation or army.
- (c) Murder of an antagonist, who, having laid down his arms or having no longer the means of defending himself, has surrendered at discretion.



- (d) The declaration that no quarter will be given.
- (e) The use of arms, projectiles or material which may cause unnecessary suffering, as well as the use of the projectiles prohibited by the Declaration of St. Petersburg in 1868.
- (f) Abuse of the flag of truce, the national flag, or the military insignia or uniform of the enemy, as well as the distinctive badges of the Geneva Convention.
- (g) All destruction or seizure of the property of the enemy which is not imperatively required by the necessity of war. (See Art. 23 of H. C.)

ART. 14. Ruses of war and the employment of means necessary to procure intelligence respecting the enemy or the country (subject to the provisions of Article 36) are considered as lawful means. (See Art. 24 of H. C.)

#### *Of Sieges and Bombardments.*

ART. 15. Fortified places are alone liable to be besieged. Towns, agglomerations of houses or villages which are open or undefended, cannot be attacked or bombarded. (See Art. 25 of H. C.)

ART. 16. But if a town or fortress, agglomeration of houses, or village, be defended, the commander of the attacking forces should, before commencing a bombardment, and except in the case of surprise (*l'attaque de vive force*), do all in his power to warn the authorities. (See Art. 26 of H. C.)

ART. 17. In the like case, all necessary steps should be taken to spare, as far as possible, buildings devoted to religion, arts, sciences and charity, hospitals, and places where sick and wounded are collected, on condition that they are not used at the same time for military purposes.



It is the duty of the besieged to indicate these buildings by special visible signs, to be notified beforehand by the besieged. (See Art. 27 of H. C.)

ART. 18. A town taken by storm shall not be given up to the victorious troops to plunder. (See Art. 28 of H. C.)

*Of Spies.*

ART. 19. No one shall be considered as a spy but those who, acting secretly or under false pretences, collect, or try to collect, information in districts occupied by the enemy, with the intention of communicating it to the opposing force. (See Art. 29 of H. C.)

ART. 20. A spy, if taken in the act, shall be tried and treated according to the laws in force in the army which captures him. (See Art. 30 of H. C.)

ART. 21. If a spy who rejoins the army to which he belongs is subsequently captured by the enemy, he is to be treated as a prisoner of war, and incurs no responsibility for his previous acts. (See Art. 31 of H. C.)

ART. 22. Soldiers (*les militaires*) who have penetrated within the zone of operations of the enemy's army, with the intention of collecting information, are not considered as spies if it has been possible to recognize their military character.

In like manner, soldiers (and also non-military persons carrying out their mission openly) charged with the transmission of despatches either to their own army or to that of the enemy, shall not be considered as spies if captured by the enemy.

To this class belong also, if captured, individuals sent in balloons to carry despatches, and generally to keep up



communications between the different parts of an army or of a territory. (See Art. 29 of H. C.)

*Of Prisoners of War.*

**ART. 23.** Prisoners of war are lawful and disarmed enemies. They are in the power of the enemy's Government, but not of the individuals or of the corps who made them prisoners.

They should be treated with humanity.

Every act of insubordination authorizes the necessary measures of severity to be taken with regard to them.

All their personal effects except their arms are considered to be their own property. (See Art. 4 of H. C.)

**ART. 24.** Prisoners of war are liable to internment in a town, fortress, camp, or any locality whatever, under an obligation not to go beyond certain fixed limits; but they may not be placed in confinement (*enfermés*) unless absolutely necessary as a measure of security. (See Art. 5 of H. C.)

**ART. 25.** Prisoners of war may be employed on certain public works which have no immediate connection with the operations on the theatre of war, provided the employment be not excessive, nor humiliating to their military rank if they belong to the army, or to their official or social position if they do not belong to it.

They may also, subject to such regulations as may be drawn up by the military authorities, undertake private work.

The pay they receive will go towards ameliorating their position, or will be placed to their credit at the time of their release. In this case the cost of their maintenance may be deducted from their pay. (See Art. 6 of H. C.)



ART. 26. Prisoners of war cannot be compelled in any way to take any part whatever in carrying on the operations of war. (See Art. 6 of H. C.)

ART. 27. The Government, in whose power are the prisoners of war, undertakes to provide for their maintenance.

The condition of such maintenance may be settled by a mutual understanding between the belligerents.

In default of such an understanding, and as a general principle, prisoners of war shall be treated, as regards food and clothing, on the same footing as the troops of the Government who made them prisoners. (See Art. 7 of H. C.)

ART. 28. Prisoners of war are subject to the laws and regulations in force in the army in whose power they are.

Arms may be used, after summoning, against a prisoner attempting to escape. If re-taken, he is subject to summary punishment (*peines disciplinaires*), or to a stricter surveillance.

If, after having escaped, he is again made prisoner, he is not liable to any punishment for his previous escape. (See Art. 8 of H. C.)

ART. 29. Every prisoner is bound to declare, if interrogated on the point, his true names and rank, and in the case of his infringing this rule he will incur a restriction of the advantages granted to the prisoners of the class to which he belongs. (See Art. 9 of H. C.)

ART. 30. The exchange of prisoners of war is regulated by mutual agreement between the belligerents. (Omitted from H. C.)

ART. 31. Prisoners of war may be released on parole if the laws of their country allow of it, and in such a case



they are bound on their personal honour to fulfil scrupulously, as regards their own Government as well as that which made them prisoners, the engagements they have undertaken.

In the same case their own Government should neither demand nor accept from them any service contrary to their parole. (See Art. 10 of H. C.)

ART. 32. A prisoner of war cannot be forced to accept release on parole, nor is the enemy's Government obliged to comply with the request of a prisoner claiming to be released on parole. (See Art. 11 of H. C.)

ART. 33. Every prisoner of war liberated on parole, and retaken carrying arms against the Government to which he had pledged his honour, may be deprived of the rights accorded to prisoners of war, and may be brought before the tribunals. (See Art. 12 of H. C.)

ART. 34. Persons in the vicinity of armies, but who do not directly form part of them, such as correspondents, newspaper reporters, sutlers, contractors, &c., may also be made prisoners of war.

These persons should, however, be furnished with a permit issued by a competent authority, as well as with a certificate of identity. (See Art. 13 of H. C.)

#### *Of the Sick and Wounded.*

ART. 35. The duties of belligerents with regard to the treatment of sick and wounded are regulated by the Convention of Geneva of the 22nd August, 1864, subject to the modifications which may be introduced into that Convention. (See Art. 21 of H. C.)



*Of the Military Power with respect to Private Individuals.*

ART. 36. The population of an occupied territory cannot be compelled to take part in military operations against their own country. (See Art. 44 of H. C.)

ART. 37. The population of occupied territories cannot be compelled to swear allegiance to the enemy's power. (See Art. 45 of H. C.)

ART. 38. The honour and rights of the family, the life and property of individuals, as well as their religious convictions and the exercise of their religion, should be respected.

Private property cannot be confiscated. (See Art. 46 of H. C.)

ART. 39. Pillage is expressly forbidden. (See Art. 47 of H. C.)

*Of Contributions and Requisitions.*

ART. 40. As private property should be respected, the enemy will demand from parishes (*communes*) or the inhabitants, only such payments and services as are connected with the necessities of war generally acknowledged in proportion to the resources of the country, and which do not imply, with regard to the inhabitants, the obligation of taking part in the operations of war against their own country. (Arts. 49—52 of H. C. are new, and deal with the subjects of Arts. 40—42.)

ART. 41. The enemy, in levying contributions, whether as equivalents for taxes (*vide* Art. 5) or for payments which should be made in kind, or as fines, will proceed, as far as possible, according to the rules of the distribu-



tion and assessment of the taxes in force in the occupied territory.

The civil authorities of the legal government will afford their assistance, if they have remained in office.

Contributions can be imposed only on the order and on the responsibility of the general-in-chief, or of the superior civil authority established by the enemy in the occupied territory.

For every contribution a receipt shall be given to the person furnishing it.

ART. 42. Requisitions shall be made only by the authority of the commandant of the locality occupied.

For every requisition an indemnity shall be granted or a receipt given.

#### *Of Flags of Truce.*

ART. 43. An individual authorized by one of the belligerents to confer with the other, on presenting himself with a white flag, accompanied by a trumpeter (bugler or drummer), or also by a flag-bearer, shall be recognized as a bearer of a flag of truce. He, as well as the trumpeter (bugler or drummer), and the flag-bearer, who accompany him, shall have the right of inviolability. (See Art. 32 of H. C.)

ART. 44. The commander to whom a bearer of a flag of truce is despatched is not obliged to receive him under all circumstances and conditions.

It is lawful for him to take all measures necessary for preventing the bearer of the flag of truce taking advantage of his stay within the radius of the enemy's position, to the prejudice of the latter; and if the bearer of the flag of truce is found guilty of such a breach of confidence, he has the right to detain him temporarily.



He may equally declare beforehand that he will not receive bearers of flags of truce during a certain period. Envoys presenting themselves after such a notification from the side to which it has been given forfeit their right to inviolability. (See Art. 33 of H. C.)

ART. 45. The bearer of a flag of truce forfeits his right of inviolability if it be proved in a positive and irrefutable manner that he has taken advantage of his privileged position to incite to or commit an act of treachery. (See Art. 34 of H. C.)

#### *Of Capitulations.*

ART. 46. The conditions of capitulations shall be discussed by the contracting parties.

These conditions shall not be contrary to military honour.

When once settled by a convention they shall be scrupulously observed by both sides. (See Art. 35 of H. C.)

#### *Of Armistices.*

ART. 47. An armistice suspends warlike operations by a mutual agreement between the belligerents. Should the duration thereof not be fixed, the belligerents may resume operations at any moment; provided, however, that proper warning be given to the enemy in accordance with the conditions of the armistice. (See Art. 36 of H. C.)

ART. 48. An armistice may be general or local. The former suspends all warlike operations between the belligerents; the latter only those between certain portions of the belligerent armies, and within a fixed radius. (See Art. 37 of H. C.)



ART. 49. An armistice should be notified officially and without delay to the competent authorities and to the troops. Hostilities are suspended immediately after the notification. (See Art. 38 of H. C.)

ART. 50. It rests with the contracting parties to define in the clauses of the armistice the relations which shall exist between the populations. (See Art. 39 of H. C.)

ART. 51. The violation of the armistice by either of the parties gives to the other the right of terminating it (*le dénoncer*). (See Art. 40 of H. C.)

ART. 52. The violation of the clauses of an armistice by private individuals, on their own personal initiative, only affords the right of demanding the punishment of the guilty persons, and, if there is occasion for it, an indemnity for losses sustained. (See Art. 41 of H. C.)

*Of Belligerents interned, and of Wounded interned, in  
Neutral Territory.*

ART. 53. The neutral State receiving on its territory troops belonging to the belligerent armies will intern them, so far as it may be possible, away from the theatre of war.

They may be kept in camps, or even confined in fortresses or in places appropriated to this purpose.

It will decide whether the officers may be released on giving their parole not to quit the neutral territory without authority. (See Art. 57 of H. C.)

ART. 54. In default of a special agreement, the neutral State which receives the belligerent troops will furnish the interned with provisions, clothing, and such aid as humanity demands.



The expenses incurred by the internment will be made good at the conclusion of peace. (See Art. 58 of H. C.)

ART. 55. The neutral State may authorize the transport across its territory of the wounded and sick belonging to the belligerent armies, provided that the trains which convey them do not carry either the *personnel* or *matériel* of war.

In this case the neutral State is bound to take the measures necessary for the safety and control of the operation. (See Art. 59 of H. C.)

ART. 56. The Convention of Geneva is applicable to the sick and wounded interned on neutral territory. (See Art. 60 of the H. C.)

The horror at the treatment to which prisoners of war had in some cases been subjected during the American Civil War had led to the formation in France in 1872 of a society for the amelioration of the condition of prisoners of war. In 1874 this society invited the powers of Europe to send two delegates to a Conference to be held at Paris to endeavour to carry out their objects. Meantime the Czar (Alexander II.) proposed a Conference which should be held at Paris to consider the wider and more general question of the conduct of war. With the circular addressed to the powers was enclosed a draft project for the consideration of the Conference. The French society thereupon abandoned its Conference, and all the European powers sent representatives to Brussels, where the Conference was opened on the 27th July, 1874. The Belgian delegate declined the presidency, which was accepted by Baron Jomini. The British delegate, Major-General Horsford, was instructed to guard against the introduction of questions of naval warfare, and only to entertain discussion on principles universally recognized and accepted. This latter point was emphasized by the president as the object of the Conference.

The Conference took as a basis the Czar's project, and ultimately ended its labour of revision on the 27th August, 1874. The delegates signed the *Projet de Déclaration* merely as a record of the proceedings, and without pledging their governments.

The Declaration has in fact never received the sanction of the governments which were represented. Many causes have been assigned for this; amongst others, the British Government declined on the ground that the articles contained many innovations, while



Germany saw in some of its rules a condemnation of her recent practices in the conduct of the Franco-German war. The sections on occupation of belligerent territory, and the qualities of combatants (especially sections 9 and 10), were fought most keenly, and the contest was in the main between the great military powers and the smaller ones, who rely on the assistance of the whole of their population. The Declaration cannot, therefore, claim to be part of International Law ; but it has served as a starting point for the numerous manuals of military law drawn up by European governments for the use of their armies in the field. It is more important to note that it formed the basis of the "Regulations respecting the Laws and Customs of War on Land," adopted by the Hague Conference in 1899, which have now become binding on the signatory powers (b).

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(b) The Brussels Project and the Draft Regulations of the Hague are printed in parallel columns on pp. 125—139 of the Blue Book on the Peace Conference, Misc. No. 1 (1899).



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### Final Act of the International Peace Conference.

The International Peace Conference, convoked in the  
best interests of humanity by his Majesty the Emperor

(a) The literature on this subject is already large, though chiefly among Continental nations. It may be useful to indicate some of the sources of information:—Parl. Papers, Russia, No. 1 (1899); Miscellaneous, No. 1 (1899); F. W. Holls, *The Hague Conference*; G. de Lapradelle, *La Conférence de la Paix*; A. Mérignhac, *La Conférence Internationale de la Paix*; *Les Lois et Coutumes de la Guerre sur Terre*, pp. 24—27.

See also Despagne, *La Guerre Sud-Africaine*; Sidney Low in *The Nineteenth Century* for September, 1899, p. 383; Professor Holland, "Some Lessons of the Peace Conference," *Fortnightly Review*, vol. 66 (N. S.), 944; S. Jules Enthoven in *The Law Magazine and Review*, vol. xxiv. p. 457; *La Revue Générale de Droit International Public*, vol. vi. pp. 846, 859, 879, 883.

The French Yellow Book, *La Conférence Internationale de la Paix*, has a fuller account of the various discussions than the English Blue Book.

I am indebted for much valuable information on this subject to Dr. Ruysenaers, Secretary-General of the Permanent Court of Arbitration, to whom I beg to tender my thanks.



of All the Russias, assembled on the invitation of the Government of her Majesty the Queen of the Netherlands in the Royal House in the Wood at the Hague, on the 18th May, 1899.

The powers enumerated in the following list took part in the Conference, to which they appointed delegates:—  
[Here follow names of delegates for Germany; Austria-Hungary; Belgium; China; Denmark; Spain; The United States of America; The United States of Mexico; France; Great Britain and Ireland; Greece; Italy; Japan; Luxemburg; Montenegro; The Netherlands; Persia; Portugal; Roumania; Russia; Servia; Siam; Sweden and Norway; Switzerland; Turkey; Bulgaria.]

In a series of meetings, between the 18th May and the 29th July, 1899, in which the constant desire of the delegates above mentioned has been to realize, in the fullest manner possible, the generous views of the august initiator of the Conference and the intentions of their governments, the Conference has agreed, for submission for signature by the plenipotentiaries, on the text of the Conventions and Declarations enumerated below and annexed to the present Act:—

- I. Convention for the pacific settlement of international conflicts.
- II. Convention regarding the laws and customs of war by land.
- III. Convention for the adaptation to maritime warfare of the principles of the Geneva Convention of the 22nd August, 1864.
- IV. Three Declarations—
  1. To prohibit the launching of projectiles and explosives from balloons or by other similar new methods.



2. To prohibit the use of projectiles, the only object of which is the diffusion of asphyxiating or deleterious gases.
3. To prohibit the use of bullets which expand or flatten easily in the human body, such as bullets with a hard envelope, of which the envelope does not entirely cover the core, or is pierced with incisions.

These Conventions and Declarations shall form so many separate Acts. These Acts shall be dated this day, and may be signed up to the 31st December, 1899, by the plenipotentiaries of the powers represented at the International Peace Conference at the Hague.

Guided by the same sentiments, the Conference has adopted unanimously the following resolution:—

“The Conference is of opinion that the restriction of military budgets, which are at present a heavy burden on the world, is extremely desirable for the increase of the material and moral welfare of mankind.”

It has, besides, formulated the following wishes:—

1. The Conference, taking into consideration the preliminary steps taken by the Swiss Federal Government for the revision of the Geneva Convention, expresses the wish that steps may be shortly taken for the assembly of a Special Conference having for its object the revision of that Convention.

This wish was voted unanimously.

2. The Conference expresses the wish that the questions of the rights and duties of neutrals may be inserted in the programme of a Conference in the near future.

3. The Conference expresses the wish that the questions with regard to rifles and naval guns, as considered by it, may be studied by the governments with the object of



coming to an agreement respecting the employment of new types and calibres.

4. The Conference expresses the wish that the governments, taking into consideration the proposals made at the Conference, may examine the possibility of an agreement as to the limitation of armed forces by land and sea, and of war budgets.

5. The Conference expresses the wish that the proposal, which contemplates the declaration of the inviolability of private property in naval warfare, may be referred to a subsequent Conference for consideration.

6. The Conference expresses the wish that the proposal to settle the question of the bombardment of ports, towns, and villages by a naval force may be referred to a subsequent Conference for consideration.

The last five wishes were voted unanimously, saving some abstentions.

In faith of which, the plenipotentiaries have signed the present Act, and have affixed their seals thereto.

Done at the Hague, 29th July, 1899, in one copy only, which shall be deposited in the Ministry for Foreign Affairs, and of which copies, duly certified, shall be delivered to all the powers represented at the Conference.

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### **Convention for the Pacific Settlement of International Disputes.**

His Majesty the King of the Belgians; His Majesty the King of Denmark; His Majesty the King of Spain, and in his name Her Majesty the Queen-Regent of the Kingdom; the President of the United States of America; the President of the United States of Mexico; the President of the French Republic; His Majesty the King of the Hellenes; His Highness the Prince of Montenegro; Her Majesty the Queen of the Netherlands; His Imperial



Majesty the Shah of Persia; His Majesty the King of Portugal and the Algarves; His Majesty the King of Roumania; His Majesty the Emperor of All the Russias; His Majesty the King of Siam; His Majesty the King of Sweden and Norway; and His Royal Highness the Prince of Bulgaria, animated by a strong desire to concert for the maintenance of the general peace;

Resolved to second by their best efforts the friendly settlement of international disputes;

Recognizing the solidarity which unites the members of the society of civilized nations;

Desirous of extending the empire of law, and of strengthening the appreciation of international justice;

Convinced that the permanent institution of a Court of Arbitration, accessible to all, in the midst of the independent powers, will contribute effectively to this result;

Having regard to the advantages attending the general and regular organization of arbitral procedure;

Sharing the opinion of the august initiator of the International Peace Conference that it is expedient to record in an international agreement the principles of equity and right on which are based the security of States and the welfare of peoples;

Being desirous of concluding a Convention to this effect, have appointed as their plenipotentiaries [*here follow the names of plenipotentiaries*];

Who, after communication of their full powers, found in good and due form, have agreed on the following provisions:—

#### TITLE I.—ON THE MAINTENANCE OF THE GENERAL PEACE.

ART. 1. With a view to obviating, as far as possible, recourse to force in the relations between States, the signatory powers agree to use their best efforts to insure the pacific settlement of international differences.



TITLE II.—ON GOOD OFFICES AND MEDIATION.

ART. 2. In case of serious disagreement or conflict, before an appeal to arms, the signatory powers agree to have recourse, as far as circumstances allow, to the good offices or mediation of one or more friendly powers.

ART. 3. Independently of this recourse, the signatory powers recommend that one or more powers, strangers to the dispute, should, on their own initiative, and as far as circumstances may allow, offer their good offices or mediation to the States at variance.

Powers, strangers to the dispute, have the right to offer good offices or mediation, even during the course of hostilities.

The exercise of this right can never be regarded by one or the other of the parties in conflict as an unfriendly act.

ART. 4. The part of the mediator consists in reconciling the opposing claims and appeasing the feelings of resentment which may have arisen between the States at variance.

ART. 5. The functions of the mediator are at an end when once it is declared, either by one of the parties to the dispute, or by the mediator himself, that the means of reconciliation proposed by him are not accepted.

ART. 6. Good offices and mediation, either at the request of the parties at variance, or on the initiative of powers strangers to the dispute, have exclusively the character of advice, and never have binding force.

ART. 7. The acceptance of mediation cannot, unless there be an agreement to the contrary, have the effect



of interrupting, delaying, or hindering mobilization or other measures of preparation for war.

If mediation occurs after the commencement of hostilities, it causes no interruption to the military operations in progress, unless there be an agreement to the contrary.

ART. 8. The signatory powers are agreed in recommending the application, when circumstances allow, of special mediation in the following form:—

In case of a serious difference endangering the peace, the States at variance choose respectively a power, to whom they intrust the mission of entering into direct communication with the power chosen on the other side, with the object of preventing the rupture of pacific relations.

For the period of this mandate, the term of which, unless otherwise stipulated, cannot exceed thirty days, the States in conflict cease from all direct communication on the subject of the dispute, which is regarded as referred exclusively to the mediating powers, who must use their best efforts to settle it.

In case of a definite rupture of pacific relations, these powers are charged with the joint task of taking advantage of any opportunity to restore peace.

### TITLE III.—ON INTERNATIONAL COMMISSIONS OF INQUIRY.

ART. 9. In differences of an international nature involving neither honour nor vital interests, and arising from a difference of opinion on points of fact, the signatory powers recommend that the parties, who have not been able to come to an agreement by means of diplomacy, should, as far as circumstances allow, institute an International Commission of Inquiry, to facilitate a solu-



tion of these differences by elucidating the facts by means of an impartial and conscientious investigation.

ART. 10. The International Commissions of Inquiry are constituted by special agreement between the parties in conflict.

The Convention for an inquiry defines the facts to be examined and the extent of the commissioners' powers.

It settles the procedure.

On the inquiry both sides must be heard.

The form and the periods to be observed, if not stated in the Inquiry Convention, are decided by the Commission itself.

ART. 11. The International Commissions of Inquiry are formed, unless otherwise stipulated, in the manner fixed by Art. 32 of the present Convention.

ART. 12. The powers in dispute engage to supply the International Commission of Inquiry, as fully as they may think possible, with all means and facilities necessary to enable it to be completely acquainted with and to accurately understand the facts in question.

ART. 13. The International Commission of Inquiry communicates its report to the conflicting powers, signed by all the members of the Commission.

ART. 14. The Report of the International Commission of Inquiry is limited to a statement of facts, and has in no way the character of an arbitral award. It leaves the conflicting powers' entire freedom as to the effect to be given to this statement.



TITLE IV.—ON INTERNATIONAL ARBITRATION.

CHAPTER I.—*On the System of Arbitration.*

ART. 15. International arbitration has for its object the settlement of differences between States by judges of their own choice, and on the basis of respect for law.

ART. 16. In questions of a legal nature, and especially in the interpretation or application of international conventions, arbitration is recognized by the signatory powers as the most effective, and at the same time the most equitable, means of settling disputes which diplomacy has failed to settle.

ART. 17. The Arbitration Convention is concluded for questions already existing or for questions which may arise eventually.

It may embrace any dispute or only disputes of a certain category.

ART. 18. The Arbitration Convention implies the engagement to submit loyally to the award.

ART. 19. Independently of general or private treaties expressly stipulating recourse to arbitration as obligatory on the signatory powers, these powers reserve to themselves the right of concluding, either before the ratification of the present Act or later, new agreements, general or private, with a view to extending obligatory arbitration to all cases which they may consider it possible to submit to it.

CHAPTER II.—*On the Permanent Court of Arbitration.*

ART. 20. With the object of facilitating an immediate recourse to arbitration for international differences, which



it has not been possible to settle by diplomacy, the signatory powers undertake to organize a permanent Court of Arbitration, accessible at all times and operating, unless otherwise stipulated by the parties, in accordance with the Rules of Procedure inserted in the present Convention.

**ART. 21.** The Permanent Court shall be competent for all arbitration cases, unless the parties agree to institute a special tribunal.

**ART. 22.** An International Bureau, established at the Hague, serves as record office for the Court.

This bureau is the channel for communications relative to the meetings of the Court.

It has the custody of the archives, and conducts all the administrative business.

The signatory powers undertake to communicate to the International Bureau at the Hague a duly certified copy of any conditions of arbitration arrived at between them, and of any award concerning them delivered by special tribunals.

They undertake also to communicate to the bureau the laws, regulations, and documents eventually showing the execution of the awards given by the Court.

**ART. 23.** Within the three months following its ratification of the present Act, each signatory power shall select four persons at the most, of known competency in questions of International Law, of the highest moral reputation, and disposed to accept the duties of arbitrators.

The persons thus selected shall be inscribed, as members of the Court, in a list which shall be notified by the bureau to all the signatory powers.

Any alteration in the list of arbitrators is brought by the bureau to the knowledge of the signatory powers.



Two or more powers may agree on the selection in common of one or more members.

The same person can be selected by different powers.

The members of the Court are appointed for a term of six years. Their appointments can be renewed.

In case of the death or retirement of a member of the Court, his place shall be filled in accordance with the method of his appointment.

**ART. 24.** When the signatory powers desire to have recourse to the Permanent Court for the settlement of a difference that has arisen between them, the arbitrators called upon to form the competent tribunal to decide this difference must be chosen from the general list of members of the Court.

Failing the direct agreement of the parties on the composition of the Arbitration Tribunal, the following course shall be pursued :—

Each party appoints two arbitrators, and these together choose an umpire.

If the votes are equal, the choice of the umpire is intrusted to a third power, selected by the parties by common accord.

If an agreement is not arrived at on this subject, each party selects a different power, and the choice of the umpire is made in concert by the powers thus selected.

The tribunal being thus composed, the parties notify to the bureau their determination to have recourse to the Court and the names of the arbitrators.

The Tribunal of Arbitration assembles on the date fixed by the parties.

The members of the Court, in the discharge of their duties and out of their own country, enjoy diplomatic privileges and immunities.



**ART. 25.** The Tribunal of Arbitration has its ordinary seat at the Hague.

Except in cases of necessity, the place of session can only be altered by the tribunal with the assent of the parties.

**ART. 26.** The International Bureau at the Hague is authorized to place its premises and its staff at the disposal of the signatory powers for the operations of any special Board of Arbitration.

The jurisdiction of the Permanent Court may, within the conditions laid down in the regulations, be extended to disputes between non-signatory powers, or between signatory powers and non-signatory powers, if the parties are agreed on recourse to this tribunal.

**ART. 27.** The signatory powers consider it their duty, if a serious dispute threatens to break out between two or more of them, to remind these latter that the Permanent Court is open to them.

Consequently, they declare that the fact of reminding the conflicting parties of the provisions of the present Convention, and the advice given to them, in the highest interests of peace, to have recourse to the Permanent Court, can only be regarded as friendly actions.

**ART. 28.** A Permanent Administrative Council composed of the diplomatic representatives of the signatory powers accredited to the Hague and of the Netherland Minister for Foreign Affairs, who will act as president, shall be instituted in this town as soon as possible after the ratification of the present Act by at least nine powers.

This Council will be charged with the establishment and organization of the International Bureau, which will be under its direction and control.



It will notify to the powers the constitution of the Court and will provide for its installation.

It will settle its rules of procedure and all other necessary regulations.

It will decide all questions of administration which may arise with regard to the operations of the Court.

It will have entire control over the appointment, suspension or dismissal of the officials and employés of the bureau.

It will fix the payments and salaries, and control the general expenditure.

At meetings duly summoned the presence of five members is sufficient to render valid the discussions of the Council. The decisions are taken by a majority of votes.

The Council communicates to the signatory powers without delay the regulations adopted by it. It furnishes them with an annual report on the labours of the Court, the working of the administration, and the expenses.

**ART. 29.** The expenses of the bureau shall be borne by the signatory powers in the proportion fixed for the International Bureau of the Universal Postal Union.

### CHAPTER III.—*On Arbitral Procedure.*

**ART. 30.** With a view to encourage the development of arbitration, the signatory powers have agreed on the following rules which shall be applicable to arbitral procedure, unless other rules have been agreed on by the parties.

**ART. 31.** The powers who have recourse to arbitration sign a special Act ("Compromis"), in which the subject of the difference is clearly defined, as well as the extent



of the arbitrators' powers. This Act implies the undertaking of the parties to submit loyally to the award.

**ART. 32.** The duties of arbitrator may be conferred on one arbitrator alone or on several arbitrators selected by the parties as they please, or chosen by them from the members of the Permanent Court of Arbitration established by the present Act.

Failing the constitution of the tribunal by direct agreement between the parties, the following course shall be pursued :

Each party appoints two arbitrators, and these latter together choose an umpire.

In case of equal voting, the choice of the umpire is intrusted to a third power, selected by the parties by common accord.

If no agreement is arrived at on this subject, each party selects a different power, and the choice of the umpire is made in concert by the powers thus selected.

**ART. 33.** When a Sovereign or the Chief of a State is chosen as arbitrator, the arbitral procedure is settled by him.

**ART. 34.** The umpire is by right president of the tribunal.

When the tribunal does not include an umpire, it appoints its own president.

**ART. 35.** In case of the death, retirement, or disability from any cause of one of the arbitrators, his place shall be filled in accordance with the method of his appointment.

**ART. 36.** The tribunal's place of session is selected by the parties. Failing this selection the tribunal sits at the Hague.



The place thus fixed cannot, except in case of necessity, be changed by the tribunal without the assent of the parties.

ART. 37. The parties have the right to appoint delegates or special agents to attend the tribunal, for the purpose of serving as intermediaries between them and the tribunal.

They are further authorized to retain, for the defence of their rights and interests before the tribunal, counsel or advocates appointed by them for this purpose.

ART. 38. The tribunal decides on the choice of languages to be used by itself, and to be authorized for use before it.

ART. 39. As a general rule the arbitral procedure comprises two distinct phases; preliminary examination and discussion.

Preliminary examination consists in the communication by the respective agents to the members of the tribunal and to the opposite party of all printed or written Acts and of all documents containing the arguments invoked in the case. This communication shall be made in the form and within the periods fixed by the tribunal in accordance with Article 49.

Discussion consists in the oral development before the tribunal of the arguments of the parties.

ART. 40. Every document produced by one party must be communicated to the other party.

ART. 41. The discussions are under the direction of the president.

They are only public if it be so decided by the tribunal, with the assent of the parties.

They are recorded in the *procès-verbaux* drawn up by



the secretaries appointed by the president. . These *procès-verbaux* alone have an authentic character.

ART. 42. When the preliminary examination is concluded, the tribunal has the right to refuse discussion of all fresh Acts or documents which one party may desire to submit to it without the consent of the other party.

ART. 43. The tribunal is free to take into consideration fresh Acts or documents to which its attention may be drawn by the agents or counsel of the parties.

In this case, the tribunal has the right to require the production of these Acts or documents, but is obliged to make them known to the opposite party.

ART. 44. The tribunal can, besides, require from the agents of the parties the production of all Acts, and can demand all necessary explanations. In case of refusal, the tribunal takes note of it.

ART. 45. The agents and counsel of the parties are authorized to present orally to the tribunal all the arguments they may think expedient in defence of their case.

ART. 46. They have the right to raise objections and points.

The decisions of the tribunal on those points are final, and cannot form the subject of any subsequent discussion.

ART. 47. The members of the tribunal have the right to put questions to the agents and counsel of the parties, and to demand explanations from them on doubtful points.

Neither the questions put nor the remarks made by members of the tribunal during the discussions can be regarded as an expression of opinion by the tribunal in general, or by its members in particular.



ART. 48. The tribunal is authorized to declare its competence in interpreting the "Compromis" as well as the other Treaties which may be invoked in the case, and in applying the principles of International Law.

ART. 49. The tribunal has the right to issue rules of procedure for the conduct of the case, to decide the forms and periods within which each party must conclude its arguments, and to arrange all the formalities required for dealing with the evidence.

ART. 50. When the agents and counsel of the parties have submitted all explanations and evidence in support of their case, the president pronounces the discussion closed.

ART. 51. The deliberations of the tribunal take place in private.

Every decision is taken by a majority of members of the tribunal.

The refusal of a member to vote must be recorded in the *procès-verbal*.

ART. 52. The award, given by a majority of votes, is accompanied by a statement of reasons. It is drawn up in writing and signed by each member of the tribunal.

Those members who are in the minority may record their dissent when signing.

ART. 53. The award is read out at a public meeting of the tribunal, the agents and counsel of the parties being present, or duly summoned to attend.

ART. 54. The award, duly pronounced and notified to the agents of the parties at variance, puts an end to the dispute definitively and without appeal.

ART. 55. The parties can reserve in the "Compromis" the right to demand the revision of the award.



In this case, and unless there be an agreement to the contrary, the demand must be addressed to the tribunal which pronounced the award. It can only be made on the ground of the discovery of some new fact calculated to exercise a decisive influence on the award, and which, at the time the discussion was closed, was unknown to the tribunal and to the party demanding the revision.

Proceedings for revision can only be instituted by a decision of the tribunal expressly recording the existence of the new fact, recognizing in it the character described in the foregoing paragraph, and declaring the demand admissible on this ground.

The "Compromis" fixes the period within which the demand for revision must be made.

ART. 56. The award is only binding on the parties who concluded the "Compromis."

When there is a question of interpreting a Convention to which powers other than those concerned in the dispute are parties, the latter notify to the former the "Compromis" they have concluded. Each of these powers has the right to intervene in the case. If one or more of them avail themselves of this right, the interpretation contained in the award is equally binding on them.

ART. 57. Each party pays its own expenses and an equal share of those of the tribunal.

#### *General Provisions.*

ART. 58. The present Convention shall be ratified as speedily as possible.

The ratifications shall be deposited at the Hague.

A *procès-verbal* shall be drawn up recording the receipt of each ratification, and a copy duly certified shall be sent, through the diplomatic channel, to all the powers



who were represented at the International Peace Conference at the Hague.

ART. 59. The non-signatory powers who were represented at the International Peace Conference can adhere to the present Convention. For this purpose they must make known their adhesion to the contracting powers by a written notification addressed to the Netherland Government, and communicated by it to all the other contracting powers.

ART. 60. The conditions on which the powers who were not represented at the International Peace Conference can adhere to the present Convention shall form the subject of a subsequent agreement among the contracting powers.

ART. 61. In the event of one of the high contracting parties denouncing the present Convention, this denunciation would not take effect until a year after its notification made in writing to the Netherland Government, and by it communicated at once to all the other contracting powers.

This denunciation shall only affect the notifying power.

In faith of which the plenipotentiaries have signed the present Convention and affixed their seals to it.

Done at the Hague, the 29th July, 1899, in a single copy, which shall remain in the archives of the Netherland Government, and copies of it, duly certified, be sent through the diplomatic channel to the contracting powers (a).

(a) For a detailed commentary on this Convention, see *Rapport sur le Règlement des Conflits Internationaux*, by M. le Chevalier Descamps, *Revue de Droit International*, 2nd series, vol. ii. [1900], pp. 117, 270, 352, 498.



*Arbitration.*—The bibliography on the subject of International Arbitration is very extensive. It is only necessary here to refer to the list of works given in Scott's leading cases on International Law at p. xlv., to which may be added Despagnet, *Droit International*, p. 721 (n), and pp. 721—738, where a further list of works may be consulted.

With regard to previous attempts at arbitration, it may be noticed that, at the request of the Peace Society, Lord Clarendon, the British representative at the Congress of Paris in 1856, obtained the acceptance of the powers of a protocol signed on the 16th April, 1856, which contained the following "wish" (*vœu*):—

"That States between whom grave dissensions arise, before having recourse to arms, shall appeal, as far as circumstances permit, to the good offices of a friendly power."

This wish was appealed to successfully at the Conference of London in 1867, to prevent the outbreak of war between France and Russia with reference to Luxemburg; and again in 1869, on the occasion of a dispute between Greece and Turkey. But the good offices were urged in vain in the case of Prussia and Austria in 1866, and France and Germany in 1870. Turkey appealed to this protocol in 1877, on the eve of the outbreak of the Russo-Turkish War, but the appeal was disregarded.

The final act of the Berlin Conference, 1885, by Art. 8, repeats the wish with reference to the International Commission of the Congo as regards difficulties as to navigation and commerce of that river.

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### Convention with respect to the Laws and Customs of War on Land.

His Majesty the King of the Belgians; His Majesty the King of Denmark; His Majesty the King of Spain, and in his name Her Majesty the Queen-Regent of the Kingdom; the President of United States of Mexico; the President of the French Republic; His Majesty the King of the Hellenes; His Highness the Prince of Montenegro; Her Majesty the Queen of the Netherlands; His Imperial Majesty the Shah of Persia; His Majesty the



King of Portugal and the Algarves; His Majesty the King of Roumania; His Majesty the Emperor of All the Russias; His Majesty the King of Siam; His Majesty the King of Sweden and Norway; and His Royal Highness the Prince of Bulgaria;

Considering that, while seeking means to preserve peace and prevent armed conflicts among nations, it is likewise necessary to have regard to cases where an appeal to arms may be caused by events which their solicitude could not avert;

Animated by the desire to serve, even in this extreme hypothesis, the interests of humanity and the ever-increasing requirements of civilization;

Thinking it important, with this object, to revise the laws and general customs of war, either with the view of defining them more precisely, or of laying down certain limits for the purpose of modifying their severity as far as possible;

Inspired by these views which are enjoined at the present day, as they were twenty-five years ago at the time of the Brussels Conference in 1874, by a wise and generous foresight;

Have, in this spirit, adopted a great number of provisions, the object of which is to define and govern the usages of war on land.

In the view of the high contracting parties, these provisions, the wording of which has been inspired by the desire to diminish the evils of war so far as military necessities permit, are destined to serve as general rules of conduct for belligerents in their relations with each other and with populations.

It has not, however, been possible to agree forthwith on provisions embracing all the circumstances which occur in practice.



On the other hand, it could not be intended by the high contracting parties that the cases not provided for should, for want of a written provision, be left to the arbitrary judgment of the military commanders.

Until a more complete code of the laws of war is issued, the high contracting parties think it right to declare that in cases not included in the regulations adopted by them, populations and belligerents remain under the protection and empire of the principles of International Law, as they result from the usages established between civilized nations, from the laws of humanity, and the requirements of the public conscience ;

They declare that it is in this sense especially that Articles 1 and 2 of the regulations adopted must be understood ;

The high contracting parties, desiring to conclude a Convention to this effect, have appointed as their plenipotentiaries [*here follow the names*] ;

Who, after communication of their full powers, found in good and due form, have agreed on the following :—

ART. 1. The high contracting parties shall issue instructions to their armed land forces, which shall be in conformity with the “ Regulations respecting the Laws and Customs of War on Land ” annexed to the present Convention.

ART. 2. The provisions contained in the regulations mentioned in Article 1 are only binding on the contracting powers, in case of war between two or more of them.

These provisions shall cease to be binding from the time when, in a war between contracting powers, a non-contracting power joins one of the belligerents.



ART. 3. The present Convention shall be ratified as speedily as possible.

The ratifications shall be deposited at the Hague.

A *procès-verbal* shall be drawn up recording the receipt of each ratification, and a copy, duly certified, shall be sent through the diplomatic channel, to all the contracting powers.

ART. 4. Non-signatory powers are allowed to adhere to the present Convention.

For this purpose they must make their adhesion known to the contracting powers by means of a written notification addressed to the Netherland Government, and by it communicated to all the other contracting powers.

ART. 5. In the event of one of the high contracting parties denouncing the present Convention, such denunciation would not take effect until a year after the written notification made to the Netherland Government, and by it at once communicated to all the other contracting powers.

This denunciation shall affect only the notifying power.

In faith of which the plenipotentiaries have signed the present Convention and affixed their seals thereto.

Done at the Hague, the 29th July, 1899, in a single copy, which shall be kept in the archives of the Netherland Government, and copies of which, duly certified, shall be delivered to the contracting powers through the diplomatic channel.



*Annex to the Convention.*

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**Regulations respecting the Laws and Customs of War  
on Land.**

**SECTION I.—ON BELLIGERENTS.**

**CHAPTER I.—*On the Qualifications of Belligerents.***

**ART. 1.** The laws, rights, and duties of war apply not only to armies, but also to militia and volunteer corps, fulfilling the following conditions:—

1. To be commanded by a person responsible for his subordinates;
2. To have a fixed distinctive emblem recognizable at a distance;
3. To carry arms openly; and
4. To conduct their operations in accordance with the laws and customs of war.

In countries where militia or volunteer corps constitute the army, or form part of it, they are included under the denomination “army.” (Compare Art. 9, Brussels Declaration.)

**ART. 2.** The population of a territory which has not been occupied who, on the enemy’s approach, spontaneously take up arms to resist the invading troops without having time to organize themselves in accordance with Article 1, shall be regarded as belligerent, if they respect the laws and customs of war. (Cp. Art. 10, B. D.)

**ART. 3.** The armed forces of the belligerent parties may consist of combatants and non-combatants. In case of capture by the enemy both have a right to be treated as prisoners of war. (Cp. Art. 11, B. D.)



CHAPTER II.—*On Prisoners of War.*

ART. 4. Prisoners of war are in the power of the hostile Government, but not in that of the individuals or corps who captured them.

They must be humanely treated.

All their personal belongings, except arms, horses, and military papers, remain their property. (Cp. Art. 23, B. D.)

ART. 5. Prisoners of war may be interned in a town, fortress, camp, or any other locality, and bound not to go beyond certain fixed limits; but they can only be confined as an indispensable measure of safety. (Cp. Art. 24, B. D.)

ART. 6. The State may utilize the labour of prisoners of war according to their rank and aptitude. Their tasks shall not be excessive, and shall have nothing to do with the military operations.

Prisoners may be authorized to work for the public service, for private persons, or on their own account.

Work done for the State shall be paid for according to the tariffs in force for soldiers of the national army employed on similar tasks.

When the work is for other branches of the public service or for private persons, the conditions shall be settled in agreement with the military authorities.

The wages of the prisoners shall go towards improving their position, and the balance shall be paid them at the time of their release, after deducting the cost of their maintenance. (Cp. Arts. 25, 26, B. D.)

ART. 7. The Government into whose hands prisoners of war have fallen is bound to maintain them.



Failing a special agreement between the belligerents, prisoners of war shall be treated, as regards food, quarters, and clothing, on the same footing as the troops of the Government which has captured them. (Cp. Art. 27, B. D.)

**ART. 8.** Prisoners of war shall be subject to the laws, regulations, and orders in force in the army of the State into whose hands they have fallen.

Any act of insubordination warrants the adoption, as regards them, of such measures of severity as may be necessary.

Escaped prisoners, recaptured before they have succeeded in rejoining their army, or before quitting the territory occupied by the army that captured them, are liable to disciplinary punishment.

Prisoners who, after succeeding in escaping are again taken prisoners, are not liable to any punishment for the previous flight. (Cp. Art. 28, B. D.)

**ART. 9.** Every prisoner of war, if questioned, is bound to declare his true name and rank, and if he disregards this rule, he is liable to a curtailment of the advantages accorded to the prisoners of war of his class. (Cp. Art. 29, B. D.)

**ART. 10.** Prisoners of war may be set at liberty on parole if the laws of their country authorize it, and, in such a case, they are bound, on their personal honour, scrupulously to fulfil, both as regards their own Government and the Government by whom they were made prisoners, the engagements they have contracted.

In such cases, their own Government shall not require of nor accept from them any service incompatible with the parole given. (Cp. Art. 31, B. D.)



ART. 11. A prisoner of war cannot be forced to accept his liberty on parole; similarly the hostile Government is not obliged to assent to the prisoner's request to be set at liberty on parole. (Cp. Art. 32, B. D.)

ART. 12. Any prisoner of war, who is liberated on parole and recaptured, bearing arms against the Government to whom he had pledged his honour, or against the allies of that Government, forfeits his right to be treated as a prisoner of war, and can be brought before the Courts. (Cp. Art. 33, B. D.)

ART. 13. Individuals who follow an army without directly belonging to it, such as newspaper correspondents and reporters, sutlers, contractors, who fall into the enemy's hands, and whom the latter think fit to detain, have a right to be treated as prisoners of war, provided they can produce a certificate from the military authorities of the army they were accompanying. (Cp. Art. 34, B. D.)

ART. 14. A bureau for information relative to prisoners of war is instituted, on the commencement of hostilities, in each of the belligerent States and, when necessary, in the neutral countries on whose territory belligerents have been received. This bureau is intended to answer all inquiries about prisoners of war, and is furnished by the various services concerned with all the necessary information to enable it to keep an individual return for each prisoner of war. It is kept informed of internments and changes, as well as of admissions into hospital and deaths.

It is also the duty of the information bureau to receive and collect all objects of personal use, valuables, letters, &c., found on the battlefields or left by prisoners who



have died in hospital or ambulance, and to transmit them to those interested. (New.)

ART. 15. Relief societies for prisoners of war, which are regularly constituted in accordance with the law of the country with the object of serving as the intermediary for charity, shall receive from the belligerents for themselves and their duly accredited agents every facility, within the bounds of military requirements and administrative regulations, for the effective accomplishment of their humane task. Delegates of these societies may be admitted to the places of internment for the distribution of relief, as also to the halting places of repatriated prisoners, if furnished with a personal permit by the military authorities, and on giving an engagement in writing to comply with all their regulations for order and police. (New.)

ART. 16. The information bureau shall have the privilege of free postage. Letters, money orders, and valuables, as well as postal parcels destined for the prisoners of war or dispatched by them, shall be free of all postal duties, both in the countries of origin and destination, as well as in those they pass through.

Gifts and relief in kind for prisoners of war shall be admitted free of all duties of entry and others, as well as of payments for carriage by the Government railways. (New.)

ART. 17. Officers taken prisoners may receive, if necessary, the full pay allowed them in this position by their country's regulations, the amount to be repaid by their Government. (New.)

ART. 18. Prisoners of war shall enjoy every latitude in the exercise of their religion, including attendance at their own church services, provided only they comply



with the regulations for order and police issued by the military authorities. (New.)

ART. 19. The wills of prisoners of war are received or drawn up on the same conditions as for soldiers of the national army.

The same rules shall be observed regarding death certificates, as well as for the burial of prisoners of war, due regard being paid to their grade and rank. (New.)

ART. 20. After the conclusion of peace, the repatriation of prisoners of war shall take place as speedily as possible. (New.)

### CHAPTER III.—*On the Sick and Wounded.*

ART. 21. The obligations of belligerents with regard to the sick and wounded are governed by the Geneva Convention of the 22nd August, 1864, subject to any modifications which may be introduced into it. (Cp. Art. 35, B. D.)

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## SECTION II.—ON HOSTILITIES.

### CHAPTER I.—*On Means of injuring the Enemy, Sieges, and Bombardments.*

ART. 22. The right of belligerents to adopt means of injuring the enemy is not unlimited. (Cp. Art. 12, B. D.)

ART. 23. Besides the prohibitions provided by special Conventions, it is especially prohibited:—

- (a) To employ poison or poisoned arms;
- (b) To kill or wound treacherously individuals belonging to the hostile nation or army;



- (c) To kill or wound an enemy who, having laid down arms, or having no longer means of defence, has surrendered at discretion;
- (d) To declare that no quarter will be given;
- (e) To employ arms, projectiles, or material of a nature to cause superfluous injury;
- (f) To make improper use of a flag of truce, the national flag, or military ensigns and the enemy's uniform, as well as the distinctive badges of the Geneva Convention;
- (g) To destroy or seize the enemy's property, unless such destruction or seizure be imperatively demanded by the necessities of war. (Cp. Art. 13, B. D.)

**ART. 24.** Ruses of war and the employment of methods necessary to obtain information about the enemy and the country, are considered allowable. (Cp. Art. 14, B. D.)

**ART. 25.** The attack or bombardment of towns, villages, habitations or buildings which are not defended, is prohibited. (Cp. Art. 15, B. D.)

**ART. 26.** The commander of an attacking force, before commencing a bombardment, except in the case of an assault, should do all he can to warn the authorities. (Cp. Art. 16, B. D.)

**ART. 27.** In sieges and bombardments all necessary steps should be taken to spare as far as possible edifices devoted to religion, art, science, and charity, hospitals, and places where the sick and wounded are collected, provided they are not used at the same time for military purposes.

The besieged should indicate these buildings or places by some particular and visible signs, which should pre-



viously be notified to the assailants. (Cp. Art. 17, B. D.)

ART. 28. The pillage of a town or place, even when taken by assault, is prohibited. (Cp. Art. 18, B. D.)

## CHAPTER II.—*On Spies.*

ART. 29. An individual can only be considered a spy if, acting clandestinely, or on false pretences, he obtains or seeks to obtain information in the zone of operations of a belligerent, with the intention of communicating it to the hostile party.

Thus, soldiers not in disguise who have penetrated into the zone of operations of a hostile army to obtain information are not considered spies. Similarly, the following are not considered spies: soldiers or civilians, carrying out their mission openly, charged with the delivery of despatches destined either for their own army or for that of the enemy. To this class belong likewise individuals sent in balloons to deliver despatches, and generally to maintain communication between the various parts of an army or a territory. (Cp. Arts. 19 and 22, B. D.)

ART. 30. A spy taken in the act cannot be punished without previous trial. (Cp. Art. 20, B. D.)

ART. 31. A spy who, after rejoining the army to which he belongs, is subsequently captured by the enemy, is treated as a prisoner of war, and incurs no responsibility for his previous acts of espionage. (Cp. Art. 21, B. D.)



CHAPTER III.—*On Flags of Truce.*

ART. 32. An individual is considered as bearing a flag of truce who is authorized by one of the belligerents to enter into communication with the other, and who carries a white flag. He has a right to inviolability, as well as the trumpeter, bugler, or drummer, the flag-bearer, and the interpreter who may accompany him. (Cp. Art. 43, B. D.)

ART. 33. The chief to whom a flag of truce is sent is not obliged to receive it in all circumstances.

He can take all steps necessary to prevent the envoy taking advantage of his mission to obtain information.

In case of abuse, he has the right to detain the envoy temporarily. (Cp. Art. 44, B. D.)

ART. 34. The envoy loses his rights of inviolability if it is proved beyond doubt that he has taken advantage of his privileged position to provoke or commit an act of treachery. (Cp. Art. 45, B. D.)

CHAPTER IV.—*On Capitulations.*

ART. 35. Capitulations agreed on between the contracting parties must be in accordance with the rules of military honour.

When once settled, they must be scrupulously observed by both parties. (Cp. Art. 46, B. D.)

CHAPTER V.—*On Armistices.*

ART. 36. An armistice suspends military operations by mutual agreement between the belligerent parties. If its duration is not fixed, the belligerent parties can



resume operations at any time, provided always the enemy is warned within the time agreed upon, in accordance with the terms of the armistice. (Cp. Art. 47, B. D.)

**ART. 37.** An armistice may be general or local. The first suspends all military operations of the belligerent States; the second, only those between certain fractions of the belligerent armies and in a fixed radius. (Cp. Art. 48, B. D.)

**ART. 38.** An armistice must be notified officially, and in good time, to the competent authorities and the troops. Hostilities are suspended immediately after the notification, or at a fixed date. (Cp. Art. 49, B. D.)

**ART. 39.** It is for the contracting parties to settle, in the terms of the armistice, what communications may be held, on the theatre of war, with the population and with each other. (Cp. Art. 50, B. D.)

**ART. 40.** Any serious violation of the armistice by one of the parties gives the other party the right to denounce it, and even, in case of urgency, to recommence hostilities at once. (Cp. Art. 51, B. D.)

**ART. 41.** A violation of the terms of the armistice by private individuals acting on their own initiative, only confers the right of demanding the punishment of the offenders, and, if necessary, indemnity for the losses sustained. (Cp. Art. 52, B. D.)

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SECTION III.—ON MILITARY AUTHORITY OVER HOSTILE  
TERRITORY.

ART. 42. Territory is considered occupied when it is actually placed under the authority of the hostile army.

The occupation applies only to the territory where such authority is established, and in a position to assert itself. (Cp. Art. 1, B. D.)

ART. 43. The authority of the legitimate power having actually passed into the hands of the occupant, the latter shall take all steps in his power to re-establish and insure, as far as possible, public order and safety, while respecting, unless absolutely prevented, the laws in force in the country. (Cp. Arts. 2 and 3, B. D.)

ART. 44. Any compulsion of the population of occupied territory to take part in military operations against its own country is prohibited. (Cp. Art. 36, B. D.)

ART. 45. Any pressure on the population of occupied territory to take the oath to the hostile power is prohibited. (Cp. Art. 37, B. D.)

ART. 46. Family honours and rights, individual lives and private property, as well as religious convictions and liberty, must be respected.

Private property cannot be confiscated. (Cp. Art. 38, B. D.)

ART. 47. Pillage is formally prohibited. (Cp. Art. 39, B. D.)

ART. 48. If, in the territory occupied, the occupant collects the taxes, dues, and tolls imposed for the benefit of the State, he shall do it, as far as possible, in accordance with the rules in existence and the assessment in force, and will in consequence be bound to defray the

public property



expenses of the administration of the occupied territory on the same scale as that by which the legitimate Government was bound. (Cp. Art. 5, B. D.)

**ART. 49.** If, besides the taxes mentioned in the preceding Article, the occupant levies other money taxes in the occupied territory, this can only be for military necessities or the administration of such territory. (Cp. Art. 40, B. D.)

**ART. 50.** No general penalty, pecuniary or otherwise, can be inflicted on the population on account of the acts of individuals for which it cannot be regarded as collectively responsible. (Cp. Arts. 40 and 41, B. D.)

**ART. 51.** No tax shall be collected except under a written order and on the responsibility of a commander-in-chief.

This collection shall only take place, as far as possible, in accordance with the rules in existence and the assessment of taxes in force.

For every payment a receipt shall be given to the taxpayer. (Cp. Art. 41, B. D.)

**ART. 52.** Neither requisitions in kind nor services can be demanded from communes or inhabitants except for the necessities of the army of occupation. They must be in proportion to the resources of the country, and of such a nature as not to involve the population in the obligation of taking part in military operations against their country.

These requisitions and services shall only be demanded on the authority of the commander in the locality occupied.

The contributions in kind shall, as far as possible, be paid for in ready money; if not, their receipt shall be acknowledged. (Cp. Art. 42, B. D.)



*(vulnérables)*

ART. 53. An army of occupation can only take possession of the cash, funds, and property liable to requisition belonging strictly to the State, depôts of arms, means of transport, stores and supplies, and, generally, all movable property of the State which may be used for military operations.

Railway plant, land telegraphs, telephones, steamers, and other ships, apart from cases governed by maritime law, as well as depôts of arms and, generally, all kinds of war material, even though belonging to companies or to private persons, are likewise material which may serve for military operations, but they must be restored at the conclusion of peace, and indemnities paid for them. (Cp. Art. 6, B. D.)

ART. 54. The plant of railways coming from neutral States, whether the property of those States, or of companies, or of private persons, shall be sent back to them as soon as possible. (Cp. Art. 6, B. D.)

ART. 55. The occupying State shall only be regarded as administrator and usufructuary of the public buildings, real property, forests, and agricultural works belonging to the hostile State, and situated in the occupied country. It must protect the capital of these properties, and administer it according to the rules of usufruct. (Cp. Art. 7, B. D.)

ART. 56. The property of the communes, that of religious, charitable, and educational institutions, and those of arts and science, even when State property, shall be treated as private property.

All seizure of, and destruction, or intentional damage done to such institutions, to historical monuments, works of art or science, is prohibited, and should be made the subject of proceedings. (Cp. Art. 8, B. D.)



SECTION IV.—ON THE INTERNMENT OF BELLIGERENTS AND  
THE CARE OF THE WOUNDED IN NEUTRAL COUNTRIES.

ART. 57. A neutral State which receives in its territory troops belonging to the belligerent armies shall intern them, as far as possible, at a distance from the theatre of war.

It can keep them in camps, and even confine them in fortresses or localities assigned for this purpose.

It shall decide whether officers may be left at liberty on giving their parole that they will not leave the neutral territory without authorization. (Cp. Art. 53, B. D.)

ART. 58. Failing a special Convention, the neutral State shall supply the interned with the food, clothing, and relief required by humanity.

At the conclusion of peace, the expenses caused by the internment shall be made good. (Cp. Art. 54, B. D.)

ART. 59. A neutral State may authorize the passage through its territory of wounded or sick belonging to the belligerent armies, on condition that the trains bringing them shall carry neither combatants nor war material. In such a case, the neutral State is bound to adopt such measures of safety and control as may be necessary for the purpose.

Wounded and sick brought under these conditions into neutral territory by one of the belligerents, and belonging to the hostile party, must be guarded by the neutral State, so as to insure their not taking part again in the military operations. The same duty shall devolve on the neutral State with regard to wounded or sick of the other army who may be committed to its care. (Cp. Art. 55, B. D.)



ART. 60. The Geneva Convention applies to sick and wounded interned in neutral territory. (Cp. Art. 56, B. D.)

### DECLARATION (i.).

THE undersigned, plenipotentiaries of the powers represented at the International Peace Conference at the Hague, duly authorized to that effect by their Governments, inspired by the sentiments which found expression in the Declaration of St. Petersburg of the 29th November (11th December), 1868,

Declare that :

The contracting powers agree to prohibit, for a term of five years, the launching of projectiles and explosives from balloons, or by other new methods of a similar nature.

The present Declaration is only binding on the contracting powers in case of war between two or more of them.

It shall cease to be binding from the time when, in a war between the contracting powers, one of the belligerents is joined by a non-contracting power.

The present Declaration shall be ratified as soon as possible.

The ratifications shall be deposited at the Hague.

A *procès-verbal* shall be drawn up on the receipt of each ratification, of which a copy, duly certified, shall be sent through the diplomatic channel to all the contracting powers.

The non-signatory powers may adhere to the present Declaration. For this purpose they must make their adhesion known to the contracting powers by means of a written notification addressed to the Netherland Government, and communicated by it to all the other contracting powers.



In the event of one of the high contracting parties denouncing the present Declaration, such denunciation shall not take effect until a year after the notification made in writing to the Netherland Government, and by it forthwith communicated to all the other contracting powers.

This denunciation shall only affect the notifying power.

In faith of which the plenipotentiaries have signed the present Declaration, and affixed their seals thereto.

Done at the Hague the 29th July, 1899, in a single copy, which shall be kept in the archives of the Netherland Government, and of which copies, duly certified, shall be sent through the diplomatic channel to the contracting powers.

DECLARATION (II).

THE undersigned, plenipotentiaries of the powers represented at the International Peace Conference at the Hague, duly authorized to that effect by their Governments, inspired by the sentiments which found expression in the Declaration of St. Petersburg of the 29th November (11th December), 1868,

Declare that:

The contracting parties agree to abstain from the use of bullets which expand or flatten easily in the human body, such as bullets with a hard envelope which does not entirely cover the core, or is pierced with incisions (a).

(a) The remainder of the Declaration is in the same terms as those attached to the first Declaration.



## DECLARATION (iii).

THE undersigned, plenipotentiaries of the powers represented at the International Peace Conference at the Hague, duly authorized to that effect by their Governments, inspired by the sentiments which found expression in the Declaration of St. Petersburg of the 29th November (11th December), 1868,

Declare that :

The contracting powers agree to abstain from the use of projectiles the object of which is the diffusion of asphyxiating or deleterious gases (a).

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**Convention for the Adaptation to Maritime Warfare  
of the Principles of the Geneva Convention of  
August 22, 1864.**

His Majesty the King of the Belgians; His Majesty the King of Denmark; His Majesty the King of Spain and, in his name, Her Majesty the Queen-Regent of the Kingdom; the President of the United States of Mexico; the President of the French Republic; His Majesty the King of the Hellenes; His Highness the Prince of Montenegro; Her Majesty the Queen of the Netherlands; His Imperial Majesty the Shah of Persia; His Majesty the King of Portugal and the Algarves; His Majesty the King of Roumania; His Majesty the Emperor of All the Russias; His Majesty the King of Siam; His Majesty the King of Sweden and Norway; and His Royal Highness the Prince of Bulgaria;

Alike animated by the desire to diminish, as far as depends on them, the evils inseparable from warfare,

(a) The remainder of the Declaration is in the same terms as those attached to the first Declaration.



and wishing with this object to adapt to maritime warfare the principles of the Geneva Convention of the 22nd August, 1864, have decided to conclude a Convention to this effect :

They have, in consequence, appointed as their plenipotentiaries [*here follow names*];

Who, after communication of their full powers, found in good and due form, have agreed on the following provisions:—

ART. 1. Military hospital-ships, that is to say, ships constructed or assigned by States specially and solely for the purpose of assisting the wounded, sick, or shipwrecked, and the names of which shall have been communicated to the belligerent powers at the commencement or during the course of hostilities, and in any case before they are employed, shall be respected and cannot be captured while hostilities last (*a*).

These ships, moreover, are not on the same footing as men-of-war as regards their stay in a neutral port.

ART. 2. Hospital-ships, equipped wholly or in part at the cost of private individuals or officially recognized relief societies, shall likewise be respected and exempt from capture, provided the belligerent power to whom they belong has given them an official commission and has notified their names to the hostile power at the commencement of or during hostilities, and in any case before they are employed.

These ships should be furnished with a certificate from the competent authorities, declaring that they had been under their control while fitting out and on final departure.

ART. 3. Hospital-ships, equipped wholly or in part at

(*a*) The Commission which prepared the draft was careful to avoid the words "neutral" (*neutre*) and "neutralization" which had been used in the Geneva Conventions. (Parl. Papers, Misc. No. 1 (1899), p. 69.)



the cost of private individuals or officially recognized societies of neutral countries, shall be respected and exempt from capture, if the neutral power to whom they belong has given them an official commission and notified their names to the belligerent powers at the commencement of or during hostilities, and in any case before they are employed.

ART. 4. The ships mentioned in Articles 1, 2, and 3 (a) shall afford relief and assistance to the wounded, sick, and shipwrecked of the belligerents independently of their nationality.

The Governments engage not to use these ships for any military purpose.

These ships must not in any way hamper the movements of the combatants.

During and after an engagement they will act at their own risk and peril.

The belligerents will have the right to control and visit them; they can refuse to help them, order them off, make them take a certain course, and put a commissioner on board; they can even detain them, if important circumstances require it.

As far as possible the belligerents shall inscribe in the sailing papers of the hospital-ships the orders they give them.

ART. 5. The military hospital-ships shall be distinguished by being painted white outside with a horizontal band of green about a metre and a-half in breadth.

The ships mentioned in Articles 2 and 3 shall be distinguished by being painted white outside with a horizontal band of red about a metre and a-half in breadth.

(a) The rescue of belligerent wounded, sick, or shipwrecked by neutral ships of war is not touched by the Conventions. For the action of the British and French men-of-war in rescuing the survivors of the Russian ships *The Varyag* and *Koriets* at Chemulpho on 9th Feb., 1904, see report of lecture by Dr. Lawrence on "Problems of Neutrality" in the *Times* of 26th May, 1904.



The boats of the ships above mentioned, as also small craft which may be used for hospital work, shall be distinguished by similar painting.

All hospital-ships shall make themselves known by hoisting, together with their national flag, the white flag with a red cross provided by the Geneva Convention.

ART. 6. Neutral merchantmen, yachts, or vessels, having, or taking on board, sick, wounded, or shipwrecked of the belligerents, cannot be captured for so doing, but they are liable to capture for any violation of neutrality they may have committed.

ART. 7. The religious, medical, or hospital staff of any captured ship is inviolable, and its members cannot be made prisoners of war. On leaving the ship they take with them the objects and surgical instruments which are their own private property.

This staff shall continue to discharge its duties while necessary, and can afterwards leave when the commander-in-chief considers it possible.

The belligerents must guarantee to the staff that has fallen into their hands the enjoyment of their salaries intact.

ART. 8. Sailors and soldiers who are taken on board when sick or wounded, to whatever nation they belong, shall be protected and looked after by the captors.

ART. 9. The shipwrecked, wounded, or sick of one of the belligerents who fall into the hands of the other, are prisoners of war. The captor must decide, according to circumstances, if it is best to keep them or send them to a port of his own country, to a neutral port, or even to a hostile port. In the last case, prisoners thus repatriated cannot serve as long as the war lasts.

ART. 10. The shipwrecked, wounded, or sick, who are landed at a neutral port with the consent of the local authorities, must, failing a contrary arrangement between



the neutral State and the belligerents, be guarded by the neutral State, so that they cannot again take part in the military operations.

The expenses of entertainment and internment shall be borne by the State to which the shipwrecked, wounded, or sick belong (a).

ART. 11. The rules contained in the above articles are binding only on the contracting powers, in case of war between two or more of them.

The said rules shall cease to be binding from the time when, in a war between the contracting powers, one of the belligerents is joined by a non-contracting power.

ART. 12. The present Convention shall be ratified as soon as possible.

The ratifications shall be deposited at the Hague.

On the receipt of each ratification a *procès-verbal* shall be drawn up, a copy of which, duly certified, shall be sent through the diplomatic channel to all the contracting powers.

ART. 13. The non-signatory powers who accepted the Geneva Convention of the 22nd August, 1864, are allowed to adhere to the present Convention.

For this purpose they must make their adhesion known to the contracting powers by means of a written notification addressed to the Netherland Government, and by it communicated to all the other contracting powers.

ART. 14. In the event of one of the high contracting parties denouncing the present Convention, such denunciation shall not take effect until a year after the notification made in writing to the Netherland Government, and forthwith communicated by it to all the other contracting powers.

This denunciation shall only affect the notifying power.

(a) This article is excluded from the ratification by all the signatory powers.



In faith of which the respective plenipotentiaries have signed the present Convention and affixed their seals thereto.

Done at the Hague the 29th July, 1899, in single copy, which shall be kept in the archives of the Government of the Netherlands, and copies of which, duly certified, shall be sent through the diplomatic channel to the contracting powers.

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The first Circular of Count Mouravieff, which was handed to the foreign representatives accredited to the Court of the Czar Nicholas II. on the 24th August, 1898, was followed by a second, dated the 11th January, 1899, in which the following topics were suggested for discussion at the proposed Conference: (a) the prohibition for a fixed term of any increase of the armed forces beyond those then maintained; (b) the prohibition of or limitation on the employment of new firearms or explosives, and of rams or submarine torpedo boats; (c) the extension to naval warfare of the principles of the Geneva Convention, 1864; (d) the revision of the Brussels Declaration, 1874; and (e) good offices, mediation, and arbitration.

The Conference met at the Hague on the 18th May, 1899, under the presidency of M. de Staal, Russian Ambassador to the Court of St. James, and was attended by representatives from the twenty-six powers enumerated in the Final Act. Difficulties had been raised as to the status of several powers to whom invitations had been addressed. Italy declined to be present if the Papal representative sat; Great Britain, as suzerain, objected to the presence of any representative of the Transvaal; and the dispute between Turkey and Bulgaria ended in the admission of the representative of the latter State in subordination to Turkey.

The Conference failed in accomplishing the object which was put in the forefront of the Russian Circular, and its failure in this respect was foreseen from the very first; still, its labours can by no means be said to have been in vain.

The very fact of the meeting of representatives of the powers of Europe and North America, together with the representatives of China, Japan, Persia, and Siam, rendered it noteworthy. For the first time the powers of the extreme East entered into an agreement



at an International Conference on terms of equality with the powers of the Western world.

The representatives were divided into three committees, to each of which were assigned some of the projects mentioned in the Czar's Circular. The first committee was divided into two sub-committees, one of which undertook the task, which was from the first seen to be a vain one, of considering the arrest of any increase in the existing armaments. From this sub-committee emanated the resolution endorsing in general terms the desire to restrict the military budgets, and the six *vœux*, while from the other came the three Declarations.

The second committee was likewise divided into two sub-committees, from one of which came the revised edition of the Brussels projects, and from the other the Convention applying to maritime warfare the Geneva Convention of 1864. The third committee dealt with the subject of Arbitration.

The Final Act, dated the 29th July, 1899, the signature of which did not bind the signatory powers, after reciting the unanimous passing of a resolution expressing a desire for the restriction of military budgets, proceeds to set forth six *vœux*, or pious aspirations; and then follow the Convention for the establishment of a permanent international arbitral tribunal; the Convention with respect to the laws and customs of war on land; three Declarations, and finally the Convention for the adaptation to maritime warfare of the principles of the Geneva Conventions.

A few words on each of these.

Of the six "wishes" of the Conference nothing more need be said; time only will reveal how far or how soon all or any of them may be realized; they deal with some of the most hotly-disputed problems of International Law.

i. The Convention on Arbitration was the work of the third committee of the delegates. It has been now signed and ratified by all the twenty-six powers present, except Turkey and China, neither of whom, up to the present, has ratified. The signatures of the United States, Roumania, and Servia are subject to reservations.

The four representatives to the Court appointed by Great Britain under Article 23 are:—Sir Edwin Baldwin Malet; Sir Edward Fry; Professor J. Westlake, K.C., Professor of International Law in the University of Cambridge; and Major-General Sir John Ardagh.

Several powers not represented at the Conference, the Republics of Salvador, Guatemala, and Uruguay, and the Empire of Corea, have since applied for admission to the Convention; but under



Article 60 of the Convention, powers not invited to the Conference can only adhere by virtue of a new Convention, necessitating the assent of all the contracting parties.

Up to the present two cases have been heard before the Court thus called into being: one in 1902 between the United States and Mexico for the adjustment of certain difficulties arising under what is known as "The Pious Fund of the Californias" (a); and the other in 1903 on the subject of the claims made by Great Britain, Germany, and Italy against Venezuela, arising out of the Blockade of Venezuela by those powers in 1902.

On the 28th August, 1902, Great Britain, France, and Germany entered into a treaty with Japan providing for the settlement by an arbitral tribunal of a dispute on the subject of the perpetual leases in the foreign concessions in Japan.

1-221  
ii. The Conventions with reference to the conduct of land warfare and the application of the principles of the Geneva Convention to maritime warfare were the work of the second committee. It will be noticed that the Convention with respect to the Laws and Customs of War on Land differs in form from the other Conventions adopted by the Conference. The latter proceed in a legislative mode, and are imperative in form; but this provides that the contracting parties will issue instructions to their land forces "which shall be in conformity with" the regulations which form the Annex to the Convention. The regulations do not, therefore, purport to form an international code of the Laws of War, but the Convention leaves it to each party to carry out the Convention as regards its own army.

The first sub-committee took for its basis the regulations of the Brussels Conference, which they re-arranged in a more scientific manner. They first consider who are lawful combatants (Arts. 1—3), avoiding, however, the difficult question of the rights of non-combatants to resist invasion, and then the rights and liabilities of persons, combatant and non-combatant (*e.g.*, newspaper correspondents), who are entitled to be treated as prisoners of war (4—21). Seven new articles (14—20) are added to the Brussels Regulations, making provision for a bureau for information relative to prisoners of war (b), and providing for the relief societies for prisoners of war having facilities to carry out

(a) Scott's Leading Cases on International Law, p. 449.

(b) The Japanese and Russian Governments have instituted such bureaux: the former by Imperial Ordinance No. 44, dated 21st February, 1904; the latter by Imperial Ordinance confirmed 13th May, 1904.



their objects, and supplementing the Brussels Regulations in other respects. The second section (22—41) deals with the means of injuring the enemy, and reproduces, with slight alterations, the Brussels Regulations; but the use of expansive bullets and the bombardment of open sea-coast towns are relegated, the one to a separate Declaration, the other to a "wish." The third section (42—56) deals with the rights of the military occupant, including requisitions and contributions; the new Articles 49—52, taking the place of Articles 40—42 of the Brussels Regulations. Article 50 is noteworthy, as it prohibits the infliction of a general penalty on the population on account of acts of individuals for which they cannot be regarded as collectively responsible. Section iv. (Arts. 57—60), on the internment of belligerents and the care of the wounded in neutral countries, reproduces the corresponding Brussels Articles (53—56), with slight alterations.

A reference to the discussions on the revision of the Brussels Regulations shows that the really doubtful questions were studiously avoided.

This Convention has been signed and ratified by all the powers represented except China and Switzerland. Sweden and Norway and Turkey have signed, but up to the present have not ratified the Convention.

iii. The Convention for the adaptation to maritime warfare of the principles of the Geneva Convention of 1868 has been signed and ratified by all of the States represented at the Conference (Article 10 being excluded in all cases from the ratification) except China and Turkey, both of whom have signed but have not ratified the Convention.

iv. Of the three Declarations against—(1) throwing projectiles or explosives from balloons; (2) using asphyxiating or deleterious gases; (3) against expanding bullets—the first has been signed and ratified by all the powers represented except Great Britain, but China and Turkey have not yet ratified, though they signed.

The second of these Declarations was contested by the United States delegate (Captain Mahan), who contended that the use of such gases was defensible on humanitarian grounds, as it was not clear to him that projectiles spreading such gases were inhuman or cruel without being decisive (*a*). The British representative finally voted with the American on this Declaration. It does not appear that the use of lyddite is included under this Declaration, as it has



not for its sole object (*"pour but unique"*) the dissemination of asphyxiating or deleterious gas. Great Britain and the United States are the only powers represented who have neither signed nor ratified this Declaration, China and Turkey having signed but not ratified.

To the third Declaration Lord Salisbury instructed Sir Julian Pauncefote (one of the British representatives) not to accede, as the Chitral campaign had demonstrated that a bullet with a hard envelope had not sufficient stopping power, and the British Government was not prepared to give up the bullet known as the "Mark IV." pattern, as it possessed the minimum of destructive effect while not inflicting unnecessary suffering. For this reason the Indian Government had adopted the Dum-dum (*a*) bullet, in which a small portion of the head of the leaden bullet is not covered by a hard metal cap, and on contact with a soft body causes a more serious injury (*b*). The contention of the British Government has received fresh corroboration during the present campaign in Somaliland. On the outbreak of the Boer War expansive bullets were not served out to the British troops, and the occasional use of them by the Boers led to energetic protest on the part of the British commanders. The rule against the use of expansive bullets among civilized powers seems to have become one of the accepted rules of war. Great Britain, the United States and Portugal have neither signed nor ratified this Declaration; China and Turkey signed but have not ratified.

The British representatives at the conclusion of the Hague Conference forwarded to Lord Salisbury, on the 31st July, 1899, certain observations on that gathering which concisely sum up the results attained :—

"Those results, happily, have dispelled the gloomy predictions of failure so largely indulged in when the rescript of his Imperial Majesty the Emperor of Russia was first made public, and, indeed, they have greatly surpassed the expectations of its most enthusiastic supporters.

"Many of the delegates assembled at the Hague entered upon their duties with the conviction that nothing practical would come of their labours, and their mission would end in the expression of benevolent sentiments and of pious hopes for the preservation of peace.

(*a*) So-called from the arsenal near Calcutta where the bullet was first made.

(*b*) For Lord Lansdowne's letter to Lord Salisbury on this subject see p. 118 of Blue Book.



"But before they had been at work a fortnight a remarkable change came over the spirit of the Conference, and it was discovered that with a little goodwill it would be possible to arrive at a common understanding on some of the questions propounded by the Circular of Count Mouravieff, and which continue to agitate the civilized world.

"It is true that the question of disarmament, or even of the limitation of armaments and budgets, which was put in the forefront of the Circular, presented so many difficulties from a practical point of view, that it was necessarily abandoned for the present.

"But on all other points success was achieved, and in the brief space of two months a great international work has been accomplished, fraught with the highest promise for the advancement of civilization and the good of mankind.

"That work consists in the production of three most important and beneficent Codes, destined to preserve the blessings of peace and to lessen the calamities of war.

"Thanks to the noble initiative of one of the youngest and at the same time one of the most powerful rulers of the world, the great family of nations has met in solemn conclave to devise measures for the settlement of future differences on the basis of reason and justice, and to denounce the arbitrament of the sword.

"Thus the new century will open with brighter prospects of international peace, and all nations must hail with satisfaction the admirable work of the Conference in humanizing the laws of war both on land and at sea.

"But the most important result of the Conference is the great work it has produced in its 'Project of a Convention for the Pacific Settlement of International Conflicts.' That work, even if it stood alone, would proclaim the success of the Conference.

"Its most striking and novel feature is the establishment of a Permanent Court of International Arbitration, which has so long been the dream of the advocates of peace, destined apparently until now never to be realized."

The outbreak of the war between Russia and Japan, two of the parties to the Final Act, is a melancholy comment on the sanguine tone which characterizes the letter of Sir Julian Pauncefote and Sir Henry Howard.

2, 11, 12.































